

2018 Final Report of the Task Force to Study Erroneous Conviction and Imprisonment

SB 348/Chap. 799 (2017) and HB 593/Chap. 800 (2017)

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Acknowledgements

This 2018 Final Report of the Task Force to Study Erroneous Conviction and Imprisonment is the result of hard work, valuable input, and dedication from numerous stakeholders. Everyone was exceptionally generous with their time and supportive feedback. Their participation in the Task Force to Study Erroneous Conviction and Imprisonment, as well as their feedback, suggestions, and recommendations were invaluable for its final report. The completion and comprehensiveness of this report would not have been possible without their active participation and support.

Members of the Task Force

The *Task Force to Study Erroneous Conviction and Imprisonment* was composed of 11 members, including legislators, state's attorneys and public defenders, state government representatives, community advocates, an erroneously convicted and imprisoned individual, and a Chair appointed by Governor Hogan.

Scott Shellenberger

Chair of the Task Force, Maryland State's Attorney's Association

Senator Delores Kelley

Maryland Senate

Senator William C. Smith, Jr.

Maryland Senate

Delegate Kathleen Dumais

Maryland House of Delegates

Delegate Michael E. Malone

Maryland House of Delegates (Appointed May 2018)

Elihai Braun

Office of the Public Defender

Donald Hogan

Governor's Office of Crime Control and Prevention

Walter Lomax

Maryland Restorative Justice Initiative

Renée Hutchins

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Michele Nethercott

University of Baltimore, School of Law

Former Delegate Brett Wilson

Maryland House of Delegates (October 2017 - November 2017)

Introduction

Chapters 799/800 of 2017, *State Compensation for Erroneous Conviction and Imprisonment - Certification of Error*, authorized a state's attorney to certify that a conviction was made in error under certain circumstances. In accordance with this Act, and through written request by the petitioner, the state's attorney may certify that a conviction was made in error, if: (1) the court grants a petition for relief under § 8-301 of the Criminal Procedure Article; (2) the court sets aside the verdict or grants a new trial when ruling on a petition under § 8-301 of the Criminal Procedure Article; and (3) the state's attorney declines to prosecute the petitioner because the state's attorney determines that the petitioner is innocent.¹ Furthermore, if the state's attorney certifies that the individual's conviction was made in error under § 8-301 of the Criminal Procedure Article, the Board of Public Works may provide compensation through a grant.²

Chapters 799/800 of 2017 also established the *Task Force to Study Erroneous Conviction and Imprisonment* (Task Force) to study and make recommendations on certain issues related to erroneous convictions and establishing innocence (*See APPENDIX A*).³ Pursuant to this Act, the Task Force is required to do the following tasks and submit a report on its findings and recommendations to the Governor and the General Assembly:

- Study the State's current process for establishing whether a conviction was made in error and for determining the innocence of a person erroneously convicted;
- Study the processes and standards in other states for designating an erroneous conviction, determining a person's innocence, and compensating a person for imprisonment based on an erroneous conviction; and
- Make recommendations on whether the State should create and implement a new process
 to designate an erroneous conviction and determine the innocence of a person
 erroneously convicted, including whether a specific agency should certify that a person is
 innocent.

¹ Maryland General Assembly. (2017). <u>Chapter 799 of 2017 (Senate Bill 348)</u>, <u>State Compensation for Erroneous Conviction and Imprisonment</u>.

² Ibid.

³ Ibid.

Background

According to the National Institute of Justice, "one of the greatest tragedies in the criminal justice system is the conviction of a person for a crime he or she did not commit." Erroneous convictions "can have immeasurable consequences for exonerees, original crime victims, and families." They may also have "long-lasting negative effects on the witnesses, investigators, lawyers, judges, and other criminal justice professionals involved in erroneous convictions."

In an effort to identify factors of individuals erroneously convicted, Jon Gould and colleagues (2012) conducted a study which involved "460 erroneous conviction and near miss cases that met a stringent definition of innocence." For each case, the researchers examined and coded the information, along with numerous variables, to include: "location effects, nature of the victim, nature of the defendant, facts available to the police and prosecutor, quality of work by the criminal justice system, and quality of work by the defense." As a result, Gould and colleagues found 10 factors which "help explain why an innocent defendant, once indicted, ends up erroneously convicted rather than released" (as illustrated below):9

- 1. Age of the defendant
- 2. Criminal history of the defendant
- 3. Punitiveness of the state
- 4. *Brady* violations
- 5. Forensic error
- 6. Weak defense
- 7. Weak prosecution case
- 8. Family defense witness
- 9. Inadvertent misidentification
- 10. Lying by a non-eyewitness

⁴ National Institute of Justice. (2017). <u>Wrongful Convictions and DNA Exonerations: Understanding the Role of Forensic Science</u>.

⁵ Ibid.

⁶ Ibid.

⁷ Gould, J. B.; Carrano, J.; Leo, R.; & Young, J. (2012). *Predicting Erroneous Convictions: A Social Science Approach to Miscarriages of Justice*. "The project employed a conservative definition of factual innocence that clearly distinguishes factual innocence from innocence based on procedural error or other purely legal criteria (so-called 'legal innocence'). To establish factual innocence, each case had to possess two separate components: (1) a judicial, executive or legislative acknowledgement that the individual did not commit the crime for which he was erroneously indicted (including a statement of innocence by a prosecutor, governor, judge, state compensation board, or a juror after an acquittal); and (2) evidence that would convince a reasonable person that the individual did not commit the crime (such as post-conviction DNA testing, another individual was prosecuted and convicted of the crime, or a new diagnosis of the victim's condition)."

⁸ Ibid.

⁹ Ibid.

According to Jon Gould and Richard Leo (2010), the study of wrongful convictions has occurred for over a century. ¹⁰ In fact, Edwin Borchard released an article in 1913 which "opened the eyes of American observers to the scourge of wrongful convictions by describing European approaches to righting the wrongs of erroneous convictions." ¹¹ Twenty years later, Borchard released his book, *Convicting the Innocent: Sixty-Five Actual Errors of Criminal Justice*, which created a stir in response to the 65 cases where an innocent person had been convicted. ¹² In Borchard's book, he identified "sources of error including (mistaken) eyewitness testimony, false confessions, faulty circumstantial evidence, and prosecutorial excesses." ¹³

Since this time, researchers have strived to build upon the efforts made to analyze further and extend prior findings as it relates to wrongful convictions. In more recent years, the use of DNA testing has served to exonerate the innocent. The advent of DNA testing not only generated more attention for, and research about, wrongful convictions, but it also seemed to have pushed academicians from 'pure' research to research/advocacy. In 1992, Barry Scheck and Peter Neufeld, founded the Innocence Project at the Benjamin N. Cardozo School of Law to assist prisoners who could be proven innocent through DNA testing. In Since its inception, over "300 people in the United State have been exonerated by DNA testing - prisoners who served an average of 13 years in prison before exoneration and release. This is one of the many efforts that has occurred to provide aid to those erroneously convicted and imprisoned.

Maryland's Process

Under § 10-501 of the State Finance and Procurement Article, the Board of Public Works determines the compensation for any erroneously convicted person who either obtains a pardon from the governor stating the conviction shown conclusively to be in error or receives a certification from the State's Attorney that the conviction was in error. The board may provide a grant commensurate with the "actual damages sustained by the individual." The board may also grant a reasonable amount for any financial or other appropriate counseling for the individual. ¹⁹

¹⁰ Gould, J. B.; & Leo, R. A. (2010). *One Hundred Years Later: Wrongful Convictions after a Century of Research*. Journal of Criminal Law and Criminology, 100(3).

¹¹ As cited by Gould, J. B.; & Leo, R. A. (2010). *One Hundred Years Later: Wrongful Convictions after a Century of Research*. Journal of Criminal Law and Criminology, 100(3).

¹² Ibid.

¹³ Ibid.

¹⁴ Gould, J. B.; & Leo, R. A. (2010). *One Hundred Years Later: Wrongful Convictions after a Century of Research*. Journal of Criminal Law and Criminology, 100(3).

¹⁵ Ibid.

¹⁶ Ibid.

¹⁷ Benjamin N. Cardozo School of Law. (2017). *The Innocence Project*.

¹⁸ Ibid

¹⁹ Maryland General Assembly. <u>Article - State Finance and Procurement</u>, § 10-501.

Awarded compensation is provided from the General Emergency Fund or money that the Governor provides in the annual budget.²⁰

According to the National Registry of Exonerations, since 1989 there have been 25 individuals in Maryland who have been found to be erroneously convicted (See discussion below under Task *Force Study, First Task Force Meeting, National Landscape*).

Task Force Study

As stated above, in order to determine whether there is a better process for evaluating if an individual has been wrongfully convicted and compensating wrongfully convicted individuals,²¹ the General Assembly passed legislation that became Chapter 799 of 2017 to create the Task Force to study and make recommendations on issues related to erroneous convictions. In order to fulfill its mission the Task Force held three meetings to examine these issues.

First Task Force Meeting and Subsequent Activity

Initial Matters

The Governor's Office of Crime Control and Prevention, the entity charged with staffing the Task Force, requested that the National Governors Association present to the Task Force on other state statutes for erroneous conviction procedures and compensation at the first meeting of the Task Force on October 24, 2017. Prior to this initial meeting, materials pertaining to legislation, compensation, claims, and procedures were distributed to members for their consideration (See APPENDIX B):²²

- 1963 Legislation
- 1977 Legislation
- National Governors Association Memo
- National Governors Association Presentation
- National Governors Association Statutes Chart
- National Conference of State Legislatures: Wrongful Incarceration Compensation Statutes
- Board of Public Works 2017 Claims Chart
- Maryland Crime Victim's Resource Center, Inc. Letter
- Compensation Statutes: A National Overview (from The Innocence Project)
- 2016 Maryland Code: State Finance and Procurement

²⁰ Ibid.

²¹ CBS Baltimore. (2017). Maryland Takes on Compensation for the Wrongfully Imprisoned.

²² Please visit the *Task Force to Study Erroneous Conviction and Imprisonment* website for more information regarding these materials.

At the first meeting members discussed issues regarding compensation for the wrongfully convicted and imprisoned in Maryland, and in other states.

National Landscape

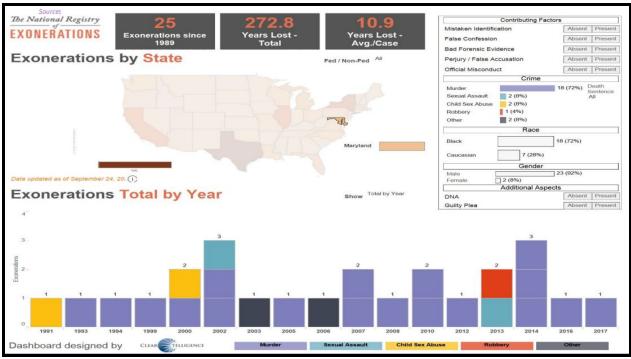
At this meeting, Lauren Dedon, Policy Analyst for the Homeland Security & Public Safety Division of the National Governors Association, presented on other states erroneous conviction standards for eligibility, compensation, and entities regarding erroneous convictions and compensation, such as those involved with setting compensation standards, creating reintegration packages, and establishing conviction integrity units. Through its research, the National Governors Association found a "steady increase in exonerations in recent years, often stemming from new DNA-testing capabilities," which promoted states to "review erroneous convictions within their criminal justice systems (*as illustrated on the following page*)."²³

The two charts below are from the National Registry of Exonerations, a project of the Newkirk Center for Science & Society at University of California Irvine, the University of Michigan Law School, and Michigan State University College of Law. It was founded in 2012 in conjunction with the Center on Wrongful Convictions at Northwestern University School of Law. The Registry provides detailed information about every known exoneration in the United States since 1989—cases in which a person was wrongly convicted of a crime and later cleared of all the charges based on new evidence of innocence. The first chart shows total exonerations nationally since 1989, while the second provides information on the 25 exonerations in Maryland since 1989.

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²³ National Governors Association. (2017). <u>State Task Forces and Procedures Related to Erroneous Convictions and Imprisonment</u>. National Governors Association. (2017). <u>Task Force to Study Erroneous Conviction and Imprisonment</u>.





State Task Forces/Commission on Erroneous Convictions

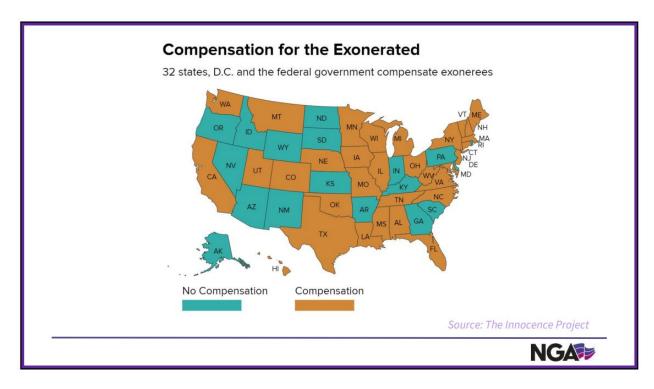
The National Governors Association also identified several states that established a task force or commission to examine policy changes intended to prevent erroneous convictions. Unlike the other state commissions listed below, which do not make determinations in individual cases, the

North Carolina Innocence Inquiry Commission reviews convictions to determine whether an individual had been wrongfully convicted.²⁴

- California Commision on the Fair Administration of Justice
- Connecticut Advisory Commission on Wrongful Convictions
- Florida Innocence Commission
- New York State Justice Task Force
- North Carolina Innocence Inquiry Commission
- Pennsylvania Advisory Committee on Wrongful Convictions
- Texas Timothy Cole Exoneration Review Commission
- Wisconsin Avery Task Force

Federal and State Wrongful Conviction Statutes and Procedures

According to the National Governors Association, Congress passed the Justice for All Act in 2004, which "guarantees \$50,000 for individuals exonerated of federal crimes for every year spent in prison and \$100,000 for every year spent on death row." Within the United States, "there are 32 states that have laws authorizing compensation to persons who have been exonerated for crimes they did not commit." ²⁶



²⁴ National Governors Association. (2017). <u>State Task Forces and Procedures Related to Erroneous Convictions and Imprisonment</u>.

²⁵ Íbid.

²⁶ Ibid.

Given the different laws within each state, the process by which an individual is eligible for compensation, differs drastically.²⁷ For example, Alabama indicates that eligible individuals are entitled to at least \$50,000 per year of wrongful imprisonment; whereas, Missouri requires the individual to be compensated \$50 per day for each day of wrongful incarceration, but not more than \$36,500 per year (*See APPENDIX C: Other State's Statutes for a complete list of state laws*).²⁸

Replacement of Task Force Chair

At the meeting, then Delegate Brett Wilson, Chair of the Task Force, also informed the members of his impending resignation due to his judicial appointment. His resignation from the House was effective November 16, 2017, creating a vacancy in the position of chairman and a member of the House of Delegates. In light of these events, the second meeting scheduled for November 29, 2017, was canceled.

On December 22, 2017, Governor Hogan appointed Honorable Scott D. Shellenberger, Baltimore County State's Attorney, to serve as the Chair of the Task Force.

Interim Letter

On December 27, 2017, the Governor's Office of Crime Control and Prevention submitted a letter on behalf of the Task Force, and in place of a formal report which was due to the Governor and the General Assembly by December 15, 2017. The letter outlined the efforts made to date and the need for additional time to study effectively the issues and provide recommendations as required.

Second Task Force Meeting

At the second meeting on February 19, 2018, members received personal testimony regarding the erroneous conviction of Mr. Charles Clair of Queen Anne's County. In his testimony, Mr. Clair indicated that, due to the October 1, 2017, change in law, he could now file a petition for writ of actual innocence. He also expressed his concern with the types of help available to overcome wrongful convictions.

In addition to Mr. Clair's testimony, members also discussed Senate Bill 987/House Bill 1225 which, as introduced, would alter existing provisions pertaining to payments by the Board of Public Works to individuals erroneously convicted, sentenced, and confined under State law for a crime the individual did not commit. The bill would require (instead of the current discretionary standard) the Board of Public Works to make a grant of the greater of \$50,000 per year for each year the individual was in custody or actual damages and would provide a

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²⁷ Ibid.

²⁸ Ibid

reasonable amount, not to exceed ten thousand dollars, for payment of the individual's living expenses on release from confinement. It would also require the Board of Public Works to provide reentry services to individuals compensated under § 10-501 of the State Finance and Procurement Article, to include education, training, health and dental care, and tuition. Some members voiced concerns with the potential fiscal cost of its legislation, which was unknown at the time the members considered the bill. The members (with one abstention) agreed to support the bills with amendments. The agreed upon amendments were drafted into a position paper and submitted to the Senate Judicial Proceedings Committee and the House Judiciary Committee (as illustrated below).

- Replace existing language referencing a grant with the term compensation;
- Provide that a wrongfully convicted individual shall receive the greater of actual damages or fifty thousand dollars a year for each year in custody;
- Retain current law to prohibit an individual who receives compensation to pay another
 for services in obtaining the compensation, but allowing an individual to contract legal
 services for certain matters related to wrongful convictions, including pursuing
 compensation under § 10-501 of the State Finance and Procurement Article;
- Require the Board of Public Works to coordinate with the appropriate governmental units to provide necessary reentry services, instead of requiring the board provide these services; and
- Provide that any compensation and benefits are not taxable income under Maryland law.

House Bill 1225 passed the House with the proposed Task Force amendments, but was not voted on in the Senate.

In addition, during the 2018 Legislative session, some task force members worked with the Legislature to expand two existing statutes which deal directly with the issue of actual innocence. Senate Bill 423 expanded § 8-301 of the Criminal Procedure Article to include those convicted as a result of a guilty plea, an Alford plea or a plea of nolo contendere to seek and obtain a writ of actual innocence. This was a direct reaction to the Court of Appeals decision in Jamison v. State (2016) which held that an individual who pled guilty was not eligible to seek a writ of actual innocence.

Senate Bill 423 expanded § 8-201 of the Criminal Procedure Article about who may apply for post conviction DNA testing to include those convicted by a guilty plea, an Alford plea, or a plea of nolo contendere.

These two changes will greatly expand those who can seek exoneration in Maryland.

Third Task Force Meeting

Prior to the third meeting staff distributed various materials to members for their consideration, to include House Bill 1225 (2018) - Third Reader (*See <u>APPENDIX D</u> for information on this bill*); and the following news stories from the Baltimore Sun (*See <u>APPENDIX E</u>: News Articles*):

- 1,700 cases affected by corrupt Baltimore police Gun Trace Task Force
- After murder exoneration, freed man wonders how case went wrong
- Baltimore man exonerated of murder after 30 years in prison
- Baltimore paid a wrongfully convicted man \$9M to resolve a lawsuit
- Jury awards \$15 million to Baltimore man exonerated of murder
- Over prosecutors' objection, Baltimore judge removes exonerated man's assault conviction

The Task Force held its third meeting on September 4, 2018. At this meeting the members discussed House Bill 1225, including its potential fiscal impact and the states attorney's certification that an individual's conviction was made in error under § 8-301 of the Criminal Procedure Article. Members also discussed information relating to the six recent news articles and their significance. The members approved five <u>recommendations</u> discussed below.

Recommendations

The Task Force identified five recommendations in which three were geared around <u>House Bill 1225 (2018)</u> and two around <u>other recommendations</u>. The Task Force approved the following recommendations unanimously, except where noted otherwise.

House Bill 1225 (2018) - Third Reader Recommendations

As discussed in the previous section, if approved House Bill 1225 of 2018, *Compensation to Individual Erroneously Convicted, Sentenced, and Confined or Whose Conviction or Adjudication is Reversed*, would have made several changes to the existing provisions pertaining to payments by the Board of Public Works to individuals erroneously convicted, sentenced, and confined under State law for a crime the individual did not commit.²⁹ In addition to the changes adopted by the House as reflected in the third reader version of the bill, the Task force made the following recommendations.

²⁹ Department of Legislative Services. (2018). <u>House Bill 1225 Fiscal and Policy Note (Third Reader - Revised)</u>, <u>Compensation to Individual Erroneously Convicted, Sentenced, and Confined or Whose Conviction or Adjudication is Reversed.</u>

#1. Certificate to be Independent of a Petition for Writ of Actual Innocence

The Task Force recommends that the brackets in the third reader of House Bill 1225 (2018) be adopted to strike the reference to § 8-301 of the Criminal Procedure Article. This will allow a certificate of error regardless of whether there is a petition for a writ of actual innocence.³⁰

#2. Strike Provisions Related to the Board of Public Works Regarding Reentry Plans and Services

House Bill 1225 (2018) requires various tasks of the Board of Public Work which they may be unaware of and not suited to perform. Therefore, the Task Force recommends that language be removed on page five, lines 15-21, to address this issue.³¹ Specifically, the language to be removed states:

"(B)(1) the Board of Public Works shall contact an individual before the individual's release from confinement to develop a plan for providing services under § 10-502 of the Criminal Procedure Article; and (2) the purpose of the plan developed under § 10-502 of the Criminal Procedure Article is to ensure that the individual is able to successfully reenter and reintegrate into the community after the individual has been released from confinement "32"

Amendments not Adopted

The task force did not approve two other proposed amendments to House Bill 1225. The first would have retained current law providing discretion for the Board of Public Works to award compensation. The second would have allowed the State to seek indemnification from a local jurisdiction if the actions of the local jurisdiction or its employees contributed to the erroneous conviction.

#3. Support House Bill 1225 (as amended)

Following the discussion regarding amendments, the Task Force discussed whether to support the bill as a whole. Although the majority of members favored the support of this bill, some members indicated that they did not have adequate information to make an informed decision. In particular, the lack of information regarding the number of potential claimants and the cost to the State of Maryland was a great concern. With two members abstaining, the Task Force recommends support of House Bill 1225 of 2018 as amended.

³⁰ Maryland General Assembly. (2018). <u>House Bill 1225, Compensation to Individual Erroneously Convicted,</u> Sentenced, and Confined or Whose Conviction or Adjudication is Reversed (Third Reader).

³¹ Ibid.

³² Ibid.

Other Recommendations

In addition to the recommendations geared around House Bill 1225, the Task Force also made the following recommendations:

#4. Seek Guidance from the Attorney General

The Task Force recommends that the Attorney General provide a letter to provide guidance and clarity as it relates to whether a state's attorney from another jurisdiction may issue a certification of actual innocence.

#5. Require the Board of Public Works to Adopt a Process

The Task Force recommends that codified language be developed and provided to the legislature to direct the Board of Public Works to prepare a process and procedure for receiving and responding to petitioners seeking compensation for an erroneous conviction.

APPENDICES

APPENDIX A: Chapter 799 of 2017, Sections 2 and 3

SECTION 2. AND BE IT FURTHER ENACTED, That:

- (a) There is a Task Force to Study Erroneous Conviction and Imprisonment.
- (b) The Task Force consists of the following members: (1) two members of the Senate of Maryland, appointed by the President of the Senate; (2) two members of the House of Delegates, appointed by the Speaker of the House; (3) the Public Defender of Maryland, or the Public Defender's designee; (4) the President of the Maryland State's Attorney's Association, or the President's designee; (5) the Executive Director of the Governor's Office of Crime Control and Prevention, or the Executive Director's designee; (6) the Director of the Maryland Restorative Justice Initiative or the Director's designee; (7) a representative with expertise in criminal postconviction procedures from the University of Maryland School of Law, appointed by the Dean of the school; and (8) a representative of the Innocence Project Clinic from the University of Baltimore School of Law, appointed by the Dean of the school.
- (c) The Governor shall designate the chair of the Task Force.
- (d) The Governor's Office of Crime Control and Prevention shall provide staff for the Task Force.
- (e) A member of the Task Force: (1) may not receive compensation as a member of the Task Force; but (2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.
- (f) The Task Force shall: (1) study the State's current process for establishing whether a conviction was made in error and for determining the innocence of a person erroneously convicted; (2) study the processes and standards in other states for designating an erroneous conviction, determining a person's innocence, and compensating a person for imprisonment based on an erroneous conviction; and (3) make recommendations on whether the State should create and implement a new process to designate an erroneous conviction and determine the innocence of a person erroneously convicted, including whether a specific agency should certify that a person is innocent.
- (g) On or before December 15, 2017, the Task Force shall report its findings and recommendations to the Governor and, in accordance with § 2–1246 of the State Government Article, the General Assembly.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017. Section 2 of this Act shall remain effective for a period of 1 year and, at the end of

September 30, 2018, with no further action required by the General Assembly, Section 2 of this Act shall be abrogated and of no further force and effect.

APPENDIX B: Distributed Materials

June 1, 1963.

Approved Mare 9, 1963.

CHAPTER 176

(Senate Bill 374)

AN ACT to add new Section 12(c) to Article 66B of the Annotated Code of Maryland (1957 Edition and 1962 Supplement), title "Zoning and Planning", sub-title "Planning", to follow immediately after Section 12(b) thereof, relating to the planning commission of St. Mary's County, providing for the compensation of its members, and providing for clerical help for the commission.

SECTION 1. Be it enacted by the General Assembly of Maryland, That new Section 12(c) be and it is hereby added to Article 66B of the Annotated Code of Maryland (1957 Edition and 1962 Supplement), title "Zoning and Planning", sub-title "Planning", to follow immediately after Section 12(b) thereof and to read as follows:

12(c).

From and after June 1, 1963, in St. Mary's County the commission shall consist of one member of the county commissioners and six persons appointed by the county commissioners. The terms of the members of the commission serving thereon prior to June 1, 1963, shall remain unchanged. Of the two additional members of the commission authorized by this sub-section, one shall be appointed initially for a term of four years, and the other for a term of five years. Thereafter the term of each member shall be five years. Wherever in this sub-title a vote of three commission members is required, with respect to St. Mary's County, the vote of four members shall be required. Notwithstanding the provisions of this section, the chairman of the Commission shall receive as compensation the sum of four hundred dollars (\$400) annually, and each of the other members of the Commission shall receive as compensation the sum of three hundred dollars (\$300) annually. In addition the County Commissioners shall provide such other clerical assistance to the Commission as may be necessary.

SEC. 2. And be it further enacted, That this Act shall take effect June 1, 1963.

Approved March 29, 1963.

CHAPTER 177 -

(Senate Bill 99)

AN ACT to add new Section 16A to Article 78A of the Annotated Code of Maryland (1957 Edition), title "Public Works", sub-title "Board of Public Works", to follow immediately after Section 16 thereof, directing AUTHORIZING the Board of Public Works, IN ITS DISCRETION, to pay to any person pardoned by the Gov-

ernor and found by him to be innocent of the crime of which he was convicted, an amount not exceeding \$10.00 for each day served in a place of confinement pursuant to sentence imposed for such crime, with certain provisions for and limitations on the manner AND AMOUNT of payment.

- Section 1. Be it enacted by the General Assembly of Maryland, That new Section 16A be and it is hereby added to Article 78A of the Annotated Code of Maryland (1957 Edition), title "Public Works", sub-title "Board of Public Works", to follow immediately after Section 16 thereof, and to read as follows:
- 16A. (a) The Board of Public Works shall MAY, IN ITS DISCRETION, grant from the general emergency fund or from funds provided therefor by the Governor in the Budget Bill, to each person erroneously convicted, sentenced and confined under the laws of this State for a crime he did not commit, a sum not exceeding ten dollars (\$10.00) for each day served in any place of confinement pursuant to the sentence imposed for such crime, provided that such person shall have received a full pardon from the Governor of this State in which it is made known that the person so pardoned has been conclusively shown to have been convicted in error. Such payment shall be allowed to a person so pardoned whether or not the pardon was granted before or after the effective date of this section.
- (b) The Board in its discretion may pay such grant in lump sum or in such installments as it deems appropriate, but no part of such grant shall be paid by the Board to any person other than the person so pardoned, nor shall the person so pardoned pay any part of the sum received to any person for services rendered in connection with its collection. Any such obligation incurred is hereby declared to be void, and any payment so made shall be thereby forfeited to the State of Maryland; but nothing in this section shall preclude a person from validly contracting for services to determine his innocence, or in order to obtain his pardon, or to secure his release from prison, where otherwise permitted by law.
- (C) IN THE COMPUTATION OF ANY GRANT UNDER THE PROVISIONS OF THIS SECTION, IF THE PERSON ALREADY HAS BEEN PAID SOME COMPENSATION BY THE STATE BECAUSE OF HIS ERRONEOUS IMPRISONMENT, THE TOTAL AMOUNT OF ANY SUCH COMPENSATION SHALL BE DEDUCTED FROM THE GRANT COMPUTED UNDER THE FOREGOING PROVISIONS OF THIS SECTION.
- SEC. 2. And be it further enacted, That this Act shall take effect June 1, 1963.

Approved March 29, 1963.

CHAPTER 178

(Senate Bill 122)

AN ACT to repeal and re-enact, with amendments, Section 134 of Article 33 of the Annotated Code of Maryland (1957 Edition, 1962 Supplement), title "Elections", sub-title "Board of CanSECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section 16A(a) of Article 78A - Public Works, of the Annotated Code of Maryland (1975 Replacement Volume and 1976 Supplement) he and it is hereby repealed and reenacted, with amendments, to read as follows:

Article 78A - Public Works

16A.

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(a) The Board of Public Norks may, in its discretion, grant from the general emergency fund or from funds provided therefor by the Governor in the Ludget bill, to each person erroneously convicted, sentenced and confined under the laws of this State for a crime he did not commit, a sum not exceeding two delays (\$10.00) \$20 for each day served in any - place of conficement COMMENSURATE WITH THE ACTUAL DANAGES SUSTAINED AS A RESOLT OF THE CONFINERENT pursuant to the sentence imposed for such crime, provided that such person shall have received a full pardon from the Governor of this state in which it is made known that the person so pardoned has been conclusively shown to have been convicted in error.

SECTION 2. AND BE IT FURTHER ENACIED, That this Act may not be construed to effect any grant of funds made pursuant to a claim made prior to the effective date of this Act.

SECTION $\hat{\mathbf{z}}$ 3. AND BE IT FUBTHEF ENACTEI, That this act shall take effect July 1, 1977.

Approved May 26, 1977.

CHAPTER 880

(Senate Bill 279)

AN ACT concerning

Veterans Home Commission

FOR the purpose of providing that the Maryland Veterans*

Home Commission may charge residents of the veterans* home a residence fee; amending certain

Article 96 1/2 - Veterans Section 51A, 55 (a), (d), (g), Annotated Code of Maryland (1964 Replacement Volume and

SECTION 1. BE IT ENACTED BY MARYLAND, That Sections 51A, 55(a), of Article 96 1/2 - Veterans, of Maryland (1964 Replacement Volume and they are hereby repealed a amendments, to read as follows:

Article 96 1/2 - Ve

The Maryland Veterans' Home for the purpose of establishing, op a veterans' home within the Stat this purpose to acquire a suit appropriate location through gift, without cost to the State of established by the Commission sha honorably discharged veterans of served in the armed forces of the time! DURLING-WHATTHS at any time, a discharges from the home shall regulations prescribed by the Committee of the time of the time. with appropriate State la laws, rules and regulations. laws and

(a) The trustees have the
duties[,];

(d) After acquisition of t acquire and hold[, at no cost to and personal property, or any inter gift, purchase, devise, bequest, and to conserve, improve, administe of those properties for the purp the Commission.

(g) To appoint a commandant shall held office during their plea shall be defined by them; to author appoint and employ all subordinate needed for the proper management they shall held him strictly account. of all persons appointed or emplo the salaries of all officials of th

REQUIREMENT TO OBTAIN AN ACTUARIAL NI BILL OR RESOLUTION MAY BE WALVED BY THE CTEE TO WHICH BILL OF RESOLUTION WAS PROVIDED IN \$1.700 63 07 THIS ABTICLE, OR IT OF THE SENATE OB THE SPEAKER OF THE SEATES, AS PROVIDED IN SECTION 68 OF THIS

ELL OR RESOLUTION FOE WHICH AN ACTUARIAL BEEN REQUESTED BY THIS SECTION HAY NOT BE EXTOTED UPON BY A STANDING COMMITTEE IN OF THE GENERAL ASSERELY UNLESS THE FISCAL HE ACTUARIAL ANALYSIS, CR THE ANALYSIS HAS S PROVIDED BY SUBSECTION (B) OF THIS

AND BE IT FURTHER ENACTED, That this Act ct July 1, 1977.

CHAPTER 878

(Senate Bill 200)

19

ithological Society - Real and Personal Property Tax Exemptions

e of exempting from assessment and from ty and city ordinary taxation, real and property owned by the Maryland cal Society and used for certain the a certain exception.

reenacting, without amendments,

- Revenue and Taxes

lode of Maryland
cement Vclume and 1576 Supplement)

- Revenue and Taxes
1-3)
ode of Maryland
cement Volume and 1576 Supplement)

added to Section 9(a), of Article 81 - Revenue and Tares of the Annotated Code of Maryland (1975 Replace treenacted, without amendments; and that new Section (2)(a) be and it is hereby added to this Article and Code; and all to read as follows:

Article 81 - Bevenue and Taxes

9.

(a) The following real and tangible personal property saall be exempt from assessment and from State, county and city ordinary taxation, except as otherwise stated herein, each and all of which exemptions shall be strictly construed:

(L-3) REAL AND PERSONAL PROFIETY WHICH IS OWNED BY
THE MARYLAND ORNITHOLOGICAL SOCIETY, INC., AND IS USED
SOLELY FOR MAINTENANCE OF NATURAL AFFAS FOR FUBLIC USE,
FOR SANCTUARIES FOR WILDLIFE, FOR ENVIRONMENTAL ACCEPTION
ELUCATION OF THE PUBLIC, OR FOR SCIENTIFIC RESEARCH IN
ORNITHOLOGY OR GENERAL WILDLIFE MANAGEMENT: EXCEPT THAT
IN SOMERSET COUNTY, THE EXEMPTION SHALL APPLY TO STATE
TAXATION ONLY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 1977.

Affroved May 26, 1977.

CHAPTER 879

(Senate Bill 248)

AN ACT concerning

Crimes - Payments to Certain Persons

FOR the purpose of altering the arcunt that the Board of Public Works may pay a person who is erroneously convicted, sentenced and confined for a crime and making this change prospective.

BY repealing and reenacting, with asendments,

Article 78A — Public Works Section 16A(a) Annotated Code of Maryland (1975 Replacement Volume and 1976 Surplement)



MEMORANDUM

TO: Tiffany Maclin, Governor's Office of Crime Control and Prevention, State of

Maryland

DATE: September 19, 2017

RE: STATE TASK FORCES AND PROCEDURES RELATED TO

ERRONEOUS CONVICTIONS AND IMPRISONMENT

The National Governors Association Center for Best Practices (NGA Center) received a request from Maryland's Governor's Office of Crime Control and Prevention related to erroneous convictions and imprisonment. Specifically, the state requested information on other states that have studied, researched, or implemented policies related to erroneous convictions. To meet this request, the NGA Center reviewed state task forces and policies related to erroneous or wrongful conviction. The following is a summary of those findings.

I. State Task Forces on Erroneous Convictions

A steady increase in exonerations in recent years, often stemming from new DNA-testing capabilities, has prompted states to review erroneous convictions within their criminal justice systems. Several states have established task forces or commissions to examine policy changes that might prevent wrongful convictions in the future.

These bodies are typically created by legislatures and include judges, prosecutors, defense attorneys, members of law enforcement, legislators, executive branch officials, forensic experts, victim advocates, legal scholars, and/or other related representatives. Most task forces or commissions are established for a specific timeframe, and tasked with reviewing past cases of wrongful convictions, examining the current system in place, and developing recommendations for preventing these convictions from happening in the future.

A. California Commission on the Fair Administration of Justice

The California Commission on the Fair Administration of Justice was created in 2004 by the legislature to: (1) study and review past cases that have resulted in wrongful

According to the <u>National Registry of Exonerations</u>, over 2,000 wrongfully convicted individuals have been exonerated for state and federal crimes since 1989 (with 166 exonerations seen in 2016 nationwide).

² State reports with recommended improvements can be accessed here: <u>California</u>, <u>Connecticut</u>, <u>Florida</u>, <u>New York</u>, <u>Pennsylvania</u>, and <u>Texas</u>.



executions or conviction of innocent persons; (2) examine ways of providing safeguards and making improvements in the way the criminal justice system functions; and (3) make recommendations and proposals designed to further ensure that the application and administration of criminal justice in California is just, fair, and accurate. A final report was submitted to the legislature in 2008, which included recommendations on how to address issues like eyewitness identification, false confessions, informant testimony, problems with scientific evidence, and attorney accountability.

B. Connecticut Advisory Commission on Wrongful Convictions

The Connecticut Advisory Commission on Wrongful Convictions was created by statute in 2003.⁵ The statute was spurred by a wrongly incarcerated man who came before the legislature to seek relief.⁶ The commission investigated wrongful conviction cases to discover what went wrong and suggest how the problems discovered could be addressed.⁷ Its primary objective was to make recommendations that would reduce or eliminate the possibility of the conviction of an innocent person in Connecticut. A report was submitted to the legislature in 2009.⁸

C. Florida Innocence Commission

The Florida Innocence Commission was established in 2010 by the Florida Chief Justice to recommend solutions to the Supreme Court of Florida to eliminate or significantly reduce the causes for wrongful convictions. A final report was submitted in 2012 and included recommendations related to eyewitness identification, false confessions, law enforcement interrogation techniques, jailhouse informants, invalid scientific evidence, professional responsibility, and criminal justice funding.

D. New York State Justice Task Force

On May 1, 2009, the Chief Judge of the State of New York created the New York State
Justice Task Force to address wrongful convictions in the United States. The current
Chief Judge of New York has continued the task force, which now examines the causes
of wrongful convictions and recommends changes to the criminal justice system to

³ ftp://www.leginfo.ca.gov/pub/03-04/bill/sen/sb_0001-0050/sr_44_bill_20040827_enrolled.pdf

http://digitalcommons.law.scu.edu/cgi/viewcontent.cgi?article=1000&context=ncippubs.

https://www.jud.ct.gov/Committees/wrongfulconviction/.

⁶ Id

⁷ Id

⁸ https://www.jud.ct.gov/Committees/wrongfulconviction/WrongfulConvictionComm Report.pdf.

http://www.flcourts.org/core/fileparse.php/248/urlt/Innocence-Report-2012.pdf.

¹⁰ Id.

¹¹ http://www.nyjusticetaskforce.com/index html.



prevent such convictions.¹² The task force's membership includes judges, prosecutors, defense attorneys, members of law enforcement, legislators, executive branch officials, forensic experts, victim advocates and legal scholars from across the state.¹³ It has recommended expanding the **New York** State DNA databank, expanding post-conviction access to DNA testing and databank information, electronically recording custodial interrogations, implementing identification procedure best practices, expanding access to forensic case file materials, reforming criminal discovery, and using root cause analysis of prior incidents to prevent future wrongful convictions.¹⁴ Individual task force members have also been proactive in their respective roles in the criminal justice system in implementing new measures to safeguard against wrongful convictions.¹⁵

E. North Carolina Innocence Inquiry Commission

The North Carolina Innocence Inquiry Commission was created by the North Carolina General Assembly in 2006 and began operating in 2007. The commission is the first of its kind, as it is charged with providing an independent and balanced truth-seeking forum for credible post-conviction claims of innocence in North Carolina. The commission is made up of eight members selected by the Chief Justice of the North Carolina Supreme Court and the Chief Judge of the North Carolina Court of Appeals. The members include a superior court judge, a prosecuting attorney, a defense attorney, a victim advocate, a member of the public, a sheriff, and two discretionary members.

The commission is separate from the appeals process, and is the first commission empowered to make determinations of innocence. A person exonerated through the commission process is declared innocent and cannot be retried for the same crime. Since 2007, the commission has received 2,146 claims, closed 2,052 cases, and held ten hearings. Ten individuals have been exonerated because of the commission's investigations.

F. Pennsylvania Advisory Committee on Wrongful Convictions

Page 3 of 6

¹² Id

¹³ http://www.nyjusticetaskforce.com/2011.Fall.ABA.CriminalJusticeArticle.by.Lippman.pdf.

¹⁴ http://www.nyjusticetaskforce.com/recommendations.html.

http://www.nvjusticetaskforce.com/pdfs/2017JTF-AttorneyDisciplineReport.pdf.

¹⁶ http://innocencecommission-nc.gov/.

¹⁷ Id.

http://innocencecommission-ne.gov/commissioners/.

¹⁹ Id

http://innocencecommission-nc.gov/about/.

²¹ Id



In 2006, Pennsylvania established an advisory committee within its Joint State Government Commission to study the underlying causes of wrongful convictions.22 The goal of this committee was to explore the causes of wrongful conviction. It divided into subcommittees that focused on legal representation, investigation, redress, and forensic science.23 The committee also reviewed cases in which innocent persons were wrongfully convicted and later exonerated to identify common causes of wrongful convictions. The committee then developed a series of policy and practice recommendations throughout various decision points in the criminal justice system. The committee's report includes recommendations on eyewitness identification, confessions, indigent defense services, informant testimony, prosecutorial practice, postconviction relief, redress, and scientific evidence.

G. Texas Timothy Cole Exoneration Review Commission

Texas established the Timothy Cole Exoneration Review Commission in 2015.25 The commission was created to: (1) review cases in which an innocent defendant was convicted of a crime, and later exonerated; (2) consider the impact on the criminal justice system for potential solutions to reduce the occurrence of wrongful convictions; and (3) review and update the research and recommendations of the Timothy Cole Advisory Panel." The commission submitted recommendations to the legislature on eyewitness identification, law enforcement officer training, and jury instruction. It also provided model policies adopted by local law enforcement.2 The commission was dissolved on December 1, 2016.

H. Wisconsin Avery Task Force

In September 2005, Wisconsin Representative Mark Gundrum and then-Governor Jim Doyle introduced legislation designed to improve the accuracy and efficiency of Wisconsin's criminal justice system. After the exoneration of Steven Avery, a wrongly convicted man represented by the Innocence Project, the Avery Task Force was created to examine the causes of similar wrongful convictions and other ways that the criminal

Page 4 of 6

http://innocenceprojectpa.org/ways-support-innocent/advocates/act4innocents-campaign-page/pennsylvania s-advisory-committee-on-wrongful-convictions/.

http://innocenceprojectpa.org/wp-content/uploads/2016/05/9-15-11 rpt - Wrongful Convictions.pdf.

²⁵ http://www.txcourts.gov/media/1436589/tcerc-final-report-december-9-2016.pdf.

http://www.txcourts.gov/organizations/policy-funding/timothy-cole-exoneration-review-commission/.

²⁹ http://law.wisc.edu/fjr/clinicals/ip/policy.html.



justice system could be improved. 30 The task force included legislators, judges, prosecutors, defense attorneys, police and sheriffs, academics, and a victim advocate. The task force's final report recommended electronic recording of interrogations, eyewitness identification reform, clarifying language on DNA testing and preservation, and changing the statute of limitations.

П. State Wrongful Conviction Statutes and Procedures

In 2004, Congress passed the Justice for All Act, which guarantees \$50,000 for individuals exonerated of federal crimes for every year spent in prison and \$100,000 for every year spent on death row. 32 States, however, have differing laws to determine who is eligible to receive compensation, what compensation (if any) is available, and the period in which an individual is required to file a petition for compensation after an exoneration has occurred.

There are 32 states that have laws authorizing compensation to persons who have been exonerated for crimes they did not commit.33 Eligibility for compensation varies based on the classification or type of crime, the amount of time following the exoneration, and period of incarceration. Most of these states require that the person be convicted of a felony and serve at least a portion of their sentence.

Compensation levels are different across the states. Many states set compensation levels per year or per day of incarceration. For example, Alabama provides that eligible person are entitled to at least \$50,000 per year of wrongful imprisonment. Missouri requires that persons be compensated \$50 per day for each day of wrongful incarceration, but not more than \$36,500 per year. 4 Other states set a minimum or maximum threshold of total compensation. Maine statute states that persons may be compensated up to \$300,000 in total.

Few states set no threshold amounts and leave the amount of compensation up to a designated body. For example, New York provides that the court of claims determine an

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^{30/}http://www.wisbar.org/NewsPublications/WisconsinLawyer/Pages/Article.aspx?Volume=78&Issue=7&A rticleID=823.

http://docs.legis.wisconsin.gov/2005/related/acts/60.

https://www.congress.gov/108/plaws/publ405/PLAW-108publ405.htm.

³³ States with no compensation statute: Alaska, Arizona, Arkansas, Delaware, Georgia, Idaho, Indiana, Kansas, Kentucky, Nevada, New Mexico, North Dakota, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, and Wyoming.

⁽https://www.innocenceproject.org/compensating-wrongly-convicted/).
³⁴ Code of Ala. Sec. 29-2-150 and 650.058 R.S.Mo.

³⁵ M.R.S. §8241.



amount that is fair. Elsewhere, states also offer services as a part of their erroneous compensation package. **North Carolina** allows individuals to obtain \$50,000 per year of wrongful imprisonment, up to a maximum of \$750,000, but also offers job skills training for one year and tuition and fees for any public **North Carolina** community college.

³⁶ NY CLS Ct C Act § 8-b.

³⁷ N.C. Gen. Stat. 148-82 et seq.



TASK FORCE TO STUDY ERRONEOUS CONVICTION AND IMPRISONMENT

Lauren Dedon National Governors Association

October 24, 2017

Judiciary Committee, Room 101 House Office Building Annapolis, MD

Overview

- A Background on the National Governors Association
- Information on Erroneous Convictions and Exonerations
- Review of State Task Forces/Commissions to Study Wrongful Convictions
- State Statute Compensation Scan
- Alternative State Models to Highlight



Overview

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About the National Governors Association

- The National Governors Association (NGA) is the nation's oldest organization serving the needs of governors and their staff.
- NGA Center for Best Practices (NGA Center):
 - Economic Opportunities
 - Education Division
 - · Environment, Energy & Transportation Division
 - Health Division
 - · Homeland Security & Public Safety Division





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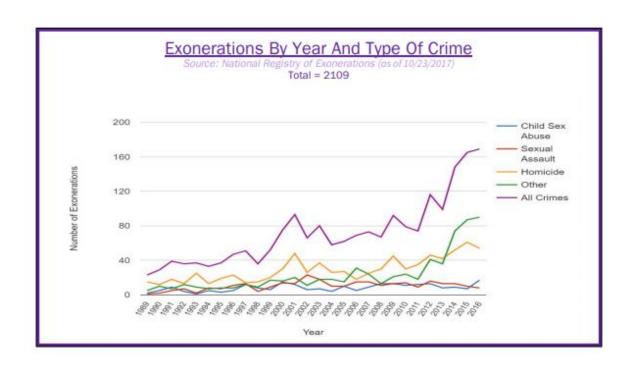
Exoneration

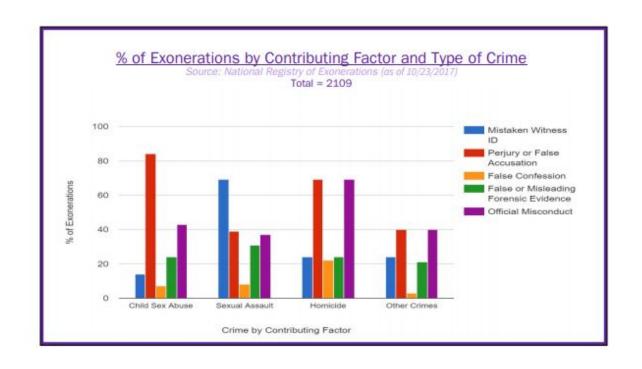
Source: National Registry of Exonerations

- A person has been exonerated if he or she was convicted of a crime and later was either:
 - Declared to be factually innocent by a government official or agency with the authority to make that declaration; or
 - Relieved of all the consequences of the criminal conviction by a government official or body with the authority to take that action.
- The official action may be:
 - A complete pardon by a governor or other competent authority, whether or not the pardon is designated as based on innocence;
 - 2. An acquittal of all charges factually related to the crime for which the person was originally convicted; or
 - A dismissal of all charges related to the crime for which the person was originally convicted, by a court or by a
 prosecutor with the authority to enter that dismissal.
- The pardon, acquittal, or dismissal must have been the result, at least in part, of evidence of innocence that either:
 - 1. Was not presented at the trial at which the person was convicted; or
 - If the person pled guilty, was not known to the defendant and the defense attorney, and to the court, at the time the plea was entered.











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Maryland Task Force to Study Erroneous Conviction and Imprisonment

- Study the State's current process for establishing whether a conviction was made in error and for determining the innocence of a person erroneously convicted;
- Study the processes and standards in other states for designating an erroneous conviction, determining a person's innocence, and compensating a person for imprisonment based on an erroneous conviction; and
- Make recommendations on whether the State should create and implement a new process to designate an erroneous conviction and determine the innocence of an person erroneously convicted, including whether a specific agency should certify that a person is innocent.
 - The task force must report its findings and recommendations to the Governor and the General Assembly by December 15th, 2017.



State Task Forces/Commissions on Wrongful Convictions: Purpose

- ❖Established to examine state policy changes that might prevent wrongful convictions in the future.
- Tasked with reviewing past cases of wrongful convictions, examining the current system in place, and developing recommendations for preventing these convictions from happening in the future.



State Task Forces/Commissions on Wrongful Convictions: Structure

- Typically created by legislatures
- ♦ Some are established for a specific timeframe
- Membership includes judges, prosecutors, defense attorneys, members of law enforcement, legislators, executive branch officials, forensic experts, victim advocates, legal scholars, and/or other related representatives (e.g. academics, exonerees, etc.)



Common State Report Contents

- Letter from the Chair
- ♦ Executive Summary
- ❖ Recommendations Summary
- ♦ Background
- ♦ Task Force Membership
- ♦ Task Force Activities
- Discussion of Recommendations
- Various Appendices
- Range between 15 328 pages



Example State Task Force/Commission: California Commission on the Fair Administration of Justice

Created in 2004 by the legislature to:

- Study and review past cases that have resulted in wrongful executions or conviction of innocent persons;
- Examine ways of providing safeguards and making improvements in the way the criminal justice system functions; and
- Make <u>recommendations</u> and proposals designed to further ensure that the application and administration of criminal justice in California is just, fair, and accurate.



<u>Example State Task Force/Commission:</u> Connecticut Advisory Commission on Wrongful Convictions

- Created by statute in 2003.
- Spurred by a wrongly incarcerated man who came before the legislature to seek relief.
- Its primary objective was to make recommendations that would reduce or eliminate the possibility of the conviction of an innocent person in Connecticut.
- The commission investigated wrongful conviction cases to discover what went wrong and suggest how the problems discovered could be addressed.
- Advisory Commission website and report accessed here.



Example State Task Force/Commission: Florida Innocence Commission

- Established in 2010 by the Florida Chief Justice to recommend solutions to the Supreme Court of Florida to eliminate or significantly reduce the causes for wrongful convictions.
- ❖A final <u>report</u> was submitted in 2012 and included recommendations related to eyewitness identification, false confessions, law enforcement interrogation techniques, jailhouse informants, invalid scientific evidence, professional responsibility, and criminal justice funding.



Example State Task Force/Commission: New York State Justice Task Force

- Created by the Chief Judge of the State of New York in 2009.
- The current Chief Judge of New York has continued the task force, which now examines the causes of wrongful convictions and recommends changes to the criminal justice system to prevent such convictions.
- Recommendations have included:
 - . Expanding the New York State DNA databank
 - Expanding post-conviction access to DNA testing and databank information;
 - · Electronically recording custodial interrogations;
 - Implementing identification procedure best practices;
 - Expanding access to forensic case file materials;
 - · Reforming criminal discovery; and
 - Using root cause analysis of prior incidents to prevent future wrongful convictions.



<u>Example State Task Force/Commission:</u> Pennsylvania Advisory Committee on Wrongful Convictions

- Established in 2006 within the Joint State Government Commission to study the underlying causes of wrongful convictions.
- Divided into subcommittees that focused on legal representation, investigation, redress, and forensic science.
- The committee also reviewed cases in which innocent persons were wrongfully convicted and later exonerated to identify common causes of wrongful convictions.
- The committee then developed a series of policy and practice <u>recommendations</u> throughout various decision points in the criminal justice system.



Example State Task Force/Commission: Texas Timothy Cole Exoneration Review Commission

Created by the legislature in 2015.

♦The commission was created to:

- Review cases in which an innocent defendant was convicted of a crime, and later exonerated;
- Consider the impact on the criminal justice system for potential solutions to reduce the occurrence of wrongful convictions; and
- Review and update the research and recommendations of the Timothy Cole Advisory Panel.
- The commission submitted <u>recommendations</u> to the legislature on eyewitness identification, law enforcement officer training, and jury instruction. It also provided model policies adopted by local law enforcement.



Common Recommendations Made by State Task Forces/Commissions

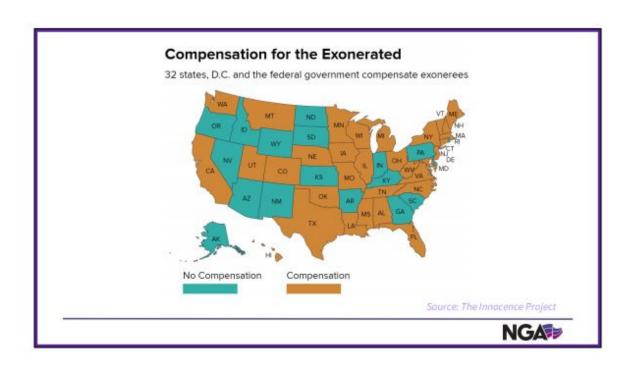
- **♦** Eyewitness identification
- **♦** False confessions
- ❖Informant testimony (including jailhouse informants)
- Attorney accountability/professional responsibility
- **♦** Jury instruction
- Law enforcement officer training (including law enforcement interrogation techniques)
- ♦ Invalid scientific evidence
- ♦ Expanding access to DNA databanks and forensic case file materials
- Indigent defense services
- ❖ Postconviction relief/compensation
- Criminal justice funding



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- Background on the National Governors Association
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- Alternative State Models to Highlight





Model State Statutory Elements

- **♦** Eligibility
- **♦ Standard of Proof**
- **❖** Deciding Body
- Statute of Limitations for Filing
- ❖ Future Civil Litigation
- Other Contributory Provisions
- Compensation Amounts



Review of State-Level Compensation Amounts

- ♦ Set compensation levels per year or per day of incarceration.
- ❖ Set compensation levels at a minimum or maximum threshold.
- Set no threshold amount (leave amount of compensation up to a designated body).
- Compensation and services packages.



Additional State Compensation Considerations: Fiscal Implications

❖Depends on:

- Average number of exonerees;
- Average time spent wrongfully incarcerated; and
- State statutory compensation scheme.

♦Other considerations:

- ·Statutory amounts v. civil lawsuit damages
- Taxes
- Correctional costs of wrongful convictions



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North Carolina Innocence Inquiry Commission

- Created in 2006 and began operating in 2007.
- The <u>Commission</u> is first of its kind, as it is charged with providing an independent and balanced truth-seeking forum for credible post-conviction claims of innocence in North Carolina.
- ♦ Made up of eight members:
 - A superior court judge, a prosecuting attorney, a defense attorney, a victim advocate, a member of the public, a sheriff, and two discretionary members.



North Carolina Innocence Inquiry Commission Cont.

- Independent state agency for credible post-conviction claims of innocence.
 - Reviews innocence claims and conducts hearings.
 - The commission is separate from the appeals process, and is the first commission empowered to make determinations of innocence.
 - A person exonerated through the commission process is declared innocent and cannot be retried for the same crime.
- ❖Since 2007, the commission has received 2,146 claims, closed 2,052 cases, and held ten hearings.
 - Ten individuals have been exonerated because of the commission's investigations.



Other Models

- **♦**Conviction Integrity Units
- **❖Illinois Torture Inquiry and Relief Commission**
- **♦New York State Justice Task Force**



Additional Resources

- ❖ The National Registry of Exonerations
- ❖The Innocence Project
- ◆ The Exoneration Initiative
- University of Virginia School of Law
- George Washington University School of Law



Thank You

Lauren Dedon, J.D.

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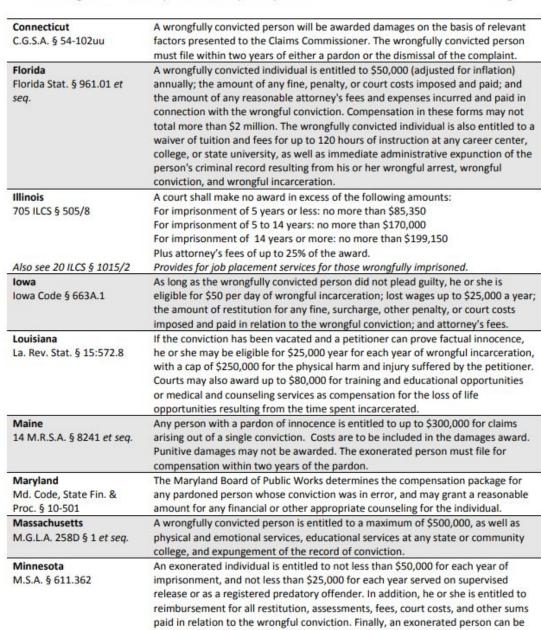


The Forum for America's Ideas

Wrongful Incarceration Compensation Statutes¹ February 2016

JURISDICTION Citation	PERMITTED COMPENSATION
United States 28 U.S.C. §§ 1495, 2513	The amount of damages awarded shall not exceed \$100,000 for each 12-month period of incarceration for any plaintiff who was unjustly sentenced to death and \$50,000 for each 12-month period of incarceration for any other plaintiff.
District of Columbia D.C. Code §§ 2-421 to 425	Upon a finding of unjust imprisonment upon clear and convincing evidence, a judge may award damages. Punitive damages may not be awarded.
Ala. Code § 29-2-150 et seq.	An exonerated person is entitled to a minimum of \$50,000 for each year of wrongfor incarceration, available within two years of exoneration. A new felony conviction will end the claimant's right to compensation. The committee can recommend a greater award to the legislature.
California Cal. Penal Code §§ 4900 to 4906	An exonerated person is entitled to a maximum of \$140 per day of wrongful incarceration, available within two years after acquittal, pardon, or release. Claimant must prove "that the crime with which he or she was charged was either not committed at all, or, if committed, was not committed by him or her," as well as the pecuniary injury sustained by him or her through his or her erroneous conviction and imprisonment.
Colorado C.R.S.A. § 13-65-101 <i>et seq.</i>	An exonerated person, or an immediate family member of an exonerated person, is entitled to \$70,000 for each year of incarceration, as well as an additional \$50,000 for each year that he or she was incarcerated and sentenced to execution and \$25,000 for each year that he or she served on parole, on probation, or as a registered sex offender after a period of incarceration. An exonerated person is also entitled to: tuition waivers at state institutions of higher education for the exonerated person and for certain children; compensation for child support payments owed by the exonerated person that became due during incarceration or placement in state custody; and any fine, penalty, court costs, restitution and reasonable attorney's fees related to the wrongful conviction. The amount of monetary compensation awarded to an exonerated person shall not be subject to state income taxes.

¹ Statutes may be edited or summarized.



entitled to reimbursement for other economic damages; medical and dental expenses incurred as a result of the claimant's imprisonment; noneconomic damages for personal physical or nonphysical injuries or sickness incurred as a result of imprisonment; any tuition and fees paid for each semester successfully



	completed in an educational program or for employment skills and development training; paid or unpaid child support payments owed by the claimant that became due, and interest on child support arrearages that accrued, during the time served in prison; and reasonable costs of paid or unpaid reintegrative expenses for immediate services secured by the claimant upon exoneration and release. There is no limit on the aggregate amount of damages that may be awarded; however, damages that may be awarded for economic damages, tuition and fees, and costs of reintegrative expenses are limited to \$100,000 per year of imprisonment and \$50,000 per year served on supervised release or as a registered predatory offender. An individual must file a claim within 60 days of exoneration, unless he or she did not receive the required notice upon exoneration, in which case a claim must be brought within three years.
Mississippi Miss. Code Ann. § 11-44-1 et seq.	Any person whose wrongful conviction was overturned is eligible for \$50,000 for each year of wrongful incarceration with a maximum of \$500,000. The wrongfully convicted person must file within three years of exoneration.
Missouri Mo. Stat. § 650.058	Persons determined to be innocent through DNA evidence are eligible for \$50 per day of post-conviction confinement. Persons determined to be actually innocent under this chapter will also automatically be granted an order of expungement of all official records all recordation of his or her arrest, plea, trial or conviction.
Montana Mont. Code § 53-1-214	Provides educational aid to wrongfully convicted persons exonerated through post-conviction DNA testing.
Nebraska Neb. Rev. Stat. § 29-4601 et seq.	Any person with a pardon for innocence, whose conviction was vacated, or whose conviction was reversed and remanded for a new trial and no subsequent conviction was obtained is eligible for damages found to proximately result from the wrongful conviction, with a maximum award of \$500,000.
New Hampshire NH Rev. Stat. § 541-B:14	Any person found to be innocent may receive up to \$20,000 for his or her wrongful incarceration.
New Jersey NJ Stat. 52:4C-1 <i>et seq</i> .	A wrongfully convicted person is eligible for either twice the amount of their income in the year prior to incarceration or \$50,000 per year of incarceration, whichever is greater, as long as he or she did not plead guilty. He or she is also entitled to receive reasonable attorney's fees and costs related to the litigation, as well as other relief such as vocational training, tuition assistance, counseling, housing assistance, and health insurance coverage as appropriate. The wrongfully convicted person must file within two years of exoneration.
New York NY Ct. Cl. Act § 8-b	Any person with a pardon for innocence, whose conviction was reversed or vacated, or whose conviction was retried and no subsequent conviction was obtained is eligible for "damages in such sum of money as the court determines will fairly and reasonably compensate him." The wrongfully convicted person must file within two years of exoneration.
North Carolina NC Gen. Stat. §§ 148-82 to 84	Any person with a pardon for innocence or who is determined to be innocent of all charges and pled not guilty or nolo contendere is eligible for \$50,000 for each year of wrongful incarceration with a maximum of \$750,000. Compensation may also be awarded for loss of life opportunities in the form of job skills training or tuition and fees at any public NC community college or constituent institution of The University of North Carolina. A claimant may apply for job skills or educational aid within 10 years of the claimant's release from incarceration



Ohio Ohio Rev. Code § 2743.48	A wrongfully convicted person is eligible to receive \$40,330 per year (or an amount determined by the state auditor) in addition to lost wages, incarceration costs, and attorney's fees as long as the claimant did not plead guilty. The claim must be filed within two years after being exonerated.
Oklahoma	A wrongfully convicted person is entitled to receive a maximum of \$175,000 as
Okla. Stat. tit 51, § 154	long as he or she did not plead guilty.
Tennessee Tenn. Code § 9-8-108	Any wrongfully convicted person who is exonerated or pardoned is entitled to a maximum of \$1,000,000. The claims board, in determining the amount of compensation, shall consider the person's physical and mental suffering and loss of earnings. The claim must be filed within one year of exoneration.
Also see § 40-30-201 et seq.	Post-Conviction Defender Oversight Commission Act of 2011 A mends procedure related to post-conviction proceedings under § 40-30-117 (c).
Texas Tex. Civ. Prac. & Rem. Code Ann. § 103.001 et seq.	A wrongfully convicted person is entitled to \$80,000 per year of wrongful incarceration, as well as \$25,000 per year spent on parole or as a registered sex offender. The wrongfully convicted person is also entitled to compensation for child support payments, tuition for up to 120 hours at a career center or public institution of higher learning, and health insurance through the Department of Criminal Justice. The wrongfully convicted person must file for compensation within three years of exoneration. The Department must provide to each wrongfully imprisoned person information on how to obtain compensation and a list of nonprofit advocacy groups that assist in filing claims for compensation. The department must provide the information either at the time of the release of the wrongfully imprisoned person or as soon as practicable after the department has reason to believe that the person is entitled to compensation.
Utah Utah Code § 78B-9-405	A wrongfully convicted person is entitled to receive for each year he or she was incarcerated, up to a maximum of 15 years, the monetary equivalent of the average annual nonagricultural payroll wage in Utah. If a court finds an individual to be factually innocent as a result of DNA testing, the court shall also issue an order of expungement and provide a letter to the individual explaining that his or her conviction has been vacated on the grounds of factual innocence.
Vermont Vt. Stat. tit. 13, § 5572 et seq.	Any person whose conviction was reversed or vacated, whose indictment was dismissed, who was acquitted after a second or subsequent trial or who was pardoned is entitled to damages between \$30,000 and \$60,000 per year the person was incarcerated. Compensation may also include economic damages, including lost wages and costs incurred by the claimant for his or her criminal defense and for efforts to prove his or her innocence; up to 10 years of eligibility for state-funded health coverage equivalent to Medicaid services; reimbursement for any reasonable reintegrative services and mental and physical health care costs incurred between the claimant's release from mistaken incarceration and the date of the award; and reasonable attorney's fees and costs. The wrongfully convicted person must file a claim within three years of the exoneration.
Virginia VA Code Ann. §§ 8.01-195.10 to 195.12	A wrongly incarcerated person is entitled to 90% of the Virginia per capita personal income for each year of her or her incarceration. In addition, he or she may receive up to \$10,000 for tuition for career and technical training within the Virginia community college system contingent upon successful completion.
Washington	A wrongly convicted individual is entitled to \$50,000 for each year of confinement, including time spent awaiting trial. In addition, the individual is

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West's RCWA 4.100.010 et. seq.	entitled tol \$50,000 for each year served under a sentence of death; \$25,000 for each year served on parole, community custody, or as a registered sex offender; compensation for child support payments owed by the claimant that became due and interest on child support arrearages that accrued while the claimant was in custody; and reimbursement for all restitution, assessments, fees, court costs, and all other sums paid by the claimant, including attorney's fees up to \$75,000. Punitive damages may not be awarded. An action for compensation must be filed within three years after the grant of a pardon, judicial relief and satisfaction of other conditions, or release from custody, whichever is later. If an individual did not receive the required notice of compensation opportunities upon exoneration, he or she has an additional twelve months to bring a claim.
West Virginia W.Va. Code § 14-2-13A	If a court finds that a claimant is entitled to a judgment for unjust imprisonment, the court shall award damages in a sum of money as the court determines will fairly and reasonably compensate the claimant based upon the sufficiency of the claimant's proof at trial. Whether the damages fairly and reasonably compensate the claimant will depend upon the unique facts and circumstances of each claim. The claimant shall bear the ultimate burden of proving all damages associated with his or her claim.
Wisconsin Wis. Stat. § 775.05	A wrongfully convicted person is entitled to a maximum of \$25,000, including attorney's fees. If the Claims Board finds that the amount it is able to award is not an adequate compensation it shall submit a report specifying an amount which it considers adequate to the legislature.

NCSL Criminal Justice Program

Denver, Colorado Ph.: (303) 364-7700 || E-mail: cj-info@ncsl.org

CLAIMS MADE UNDER STATE FINANCE AND PROCUREMENT ARTICLE, §10-501 (Formerly Article 78A, §16A)

Source of	Name & Award	Court Action	Prepared by:	Board of Public Pardon Date	BPW Item # &
Funds	Name & Awara	Court Action	Date/Incarceration	Paraon Date	Date
BPW Contingency Fund (year 1) Settlements & Judgments Fund (subsequent years)	Michael Austin \$1,405,000: 10 annual installments (approximately \$143/day) (present value \$894,760 = \$92/day)	Sentenced: 1975 Conviction vacated: Misidentification, etc. State nolle prosequi	12/27/01 (26 years, 10 months)	11/2003	11/17/04 Item 5-GM
BPW Contingency Fund (year 1) Settlements & Judgments Fund (subsequent years)	Bernard Webster \$900,000: installments: 20 semiannual (approximately \$125/day) (present value \$660,000 = \$92/day)	Sentenced: 3/1983 Conviction vacated: DNA State nolle prosequi	11/2002 (19 years, 8 months)	12/30/2002	1/8/2003 Item 24-GM
BPW Contingency Fund	Kirk Bloodsworth \$300,000: lump sum (approximately \$91/day)	Sentenced: 1984 Conviction vacated: DNA State nolle prosequi	6/1993 (9 years)	12/22/1993	6/22/94 Item 51-GM
BPW Contingency Fund	Leslie Vass \$250,000: installments (approximately \$68/day)	Sentenced: 1975 Conviction vacated: Eyewitness recanted Record expunged: 1993	5/5/1986 (11 years)	8/15/1986	4/1/1987 Item 6-GM
BPW Contingency Fund	Cornell Avery Estes \$16,500: Lump Sum (approximately \$50/day)	Sentenced: 4/1979 Conviction vacated: another confessed	Released: 3/1980	9/23/1983	3/21/1984 Item 18-GM

COMPENSATION REQUESTS TO LEGISLATURE

Name	Court Action	Legislation	Action
Reilly Brooks	Alleged prosecutorial misconduct	JR 48 - 1978 Session	Pardon 1/18/1973
\$40,000: \$55/day	The state of the s		
Stanley Gorski	Another person confessed	JR 33 - 1969 Session	No pardon?
\$35,000: \$48/day			
Anthony Gray		HB 1213 - 1999 Session	Bill Defeated
Compensation Denied			No Pardon

Prepared by:

Board of Public Works

mcd/legalmisc/wronglyimpriosned/PardonClaimschart Current as of August 2017

Maryland Crime Victims' Resource Center, Inc.



Continuing the Missions of the Stephanie Roper Committee and Foundation, Inc.

Email: mail@mdcrimevictims.org • Web Page: www.mdcrimevictims.org Toll Free: 1-877-VICTIM 1

1001 Prince Georges Blvd Suite 750 Upper Mariboro, MD 20774 301-952-0063

218 E. Lexington Street, Suite 401 Baltimore, MD 21202 410-234-9885 (phone) 410-234-9886 (fax)

October 24, 2017

The Honorable Brett R. Wilson, Chairman
Task Force to Study Erroneous Conviction & Imprisonment
c/o Governor's Office of Crime Control & Prevention
100 Community Place, Crownsville, MD 21032

Dear Chairman Wilson and Members of the Task Force:

RE: Victim Impacts Related to Erroneous Convictions

On behalf of the Maryland Crime Victims' Resource Center, Inc. (MCVRC) and the victims we annually serve across the State, we write to urge the Task Force to include consideration regarding what happens to victims and victims' representatives when there is an erroneous conviction. Those impacted by the crime must face the uncertainty regarding what had been considered a solved crime, to be an unsolved crime or a trial of a new alleged perpetrator.

Tearing open old wounds will likely inflict new trauma. Our system must treat victims with dignity, respect, and sensitivity. MCVRC makes two suggestions. First, we recommend the applicable period for filing an application for Criminal Injuries Compensation be extended. Second in light of the recent Supreme Court case of *Colorado v Nelson*, we recommend that subject to subrogation by the victim, the State treat restitution as it would fines, costs, fees, and compensation so that the victim is not revictimized by having to pay back the previously convicted, but now erroneously convicted offender for any restitution paid. Draft language is attached for consideration.

Thank you for your consideration. The State should reasonably do all in its power not to revictimize the victims.

Respectfully submitted,

Russell P. Butler

Debbie Tall

Roberta Roper

Russell P. Butler Executive Director Debbie Tall Chairperson Roberta Roper Founder

1. Md. CRIMINAL PROCEDURE Code Ann. § 11-809

- (a) (1) Except as provided in paragraph (2) OR (3) of this subsection, a claimant shall file a claim not later than 3 years after the occurrence of the crime or delinquent act or the death of the victim.
 - (2) In a case of child abuse, a claimant may file a claim:
 - (i) up to the date the child who was the subject of the abuse reaches the age of 25 years; or
- (ii) if the Board determines that there was good cause for failure to file a claim before the date the child who was the subject of the abuse reached the age of 25 years, at any time.
- (3) IN A CASE WHERE THE GOVERNOR HAS ISSUED A PARDON IN ERROR, ANY COURT HAS OVERTURNED THE CONVICTION OF AN OFFENDER, OR A STATE'S ATTORNEY HAS ISSUED A CERITIFICATE OF A CONVICTION IN ERROR, A CLAIMANT SHALL FILE A CLAIM NOT LATER THAN 3 YEARS AFTER THE ISSUANCE OF THE PARDON, THE APPLICABLE COURT ORDER, OR THE CERTIFIFACTION.

2. Md. State FINANCE AND PROCUREMENT Code Ann. §10-501.

- (a) (1) Subject to subsection (b) of this section, the Board of Public Works may grant to an individual erroneously convicted, sentenced, and confined under State law for a crime the individual did not commit an amount commensurate with the actual damages sustained by the individual, and may grant a reasonable amount for any financial or other appropriate counseling for the individual, due to the confinement.
- (2) In making a grant under paragraph (1) of this subsection OR SUBSECTION (F) OF THIS SECTION, the Board of Public Works shall use money in the General Emergency Fund or money that the Governor provides in the annual budget.
- (F) (1) FOR AN INDIVIDUAL UNDER SUBSECTION (B) OF THIS SECTION OR AN INDIVIDUAL WHOSE CONVICTION OR ADJUDICATION WAS REVERSED AND A COURT HAS DETERMINED THAT FINES, FEES, COSTS, AND RESTITUTION THAT WERE PAID MUST BE REFUNDED, THE BOARD OF PUBLIC WORKS SHALL ISSUE A GRANT IN A LUMP SUM OR IN INSTALLMENTS FOR THE AMOUNT OF FINES, COSTS, FEES, AND RESTITUTION DETERMINTED THAT ARE OWED THE INDIVIDUAL.
- (2) THE PAYMENT OF THE REFUND OF RESTITUTION BY THE STATE UNDER PARAGRAPH (1) OR THIS SECTION SUBROGATES THE STATE, TO THE EXTENT OF A PAYMENT FOR A REFUND OF RESITUTION, TO ANY RIGHT OF THE ORIGINAL RESTITUTION PAYEE TO RECOVER PAYMENTS WITH RESPECT TO THE CRIME OR DELINQUENT ACT REGARDING THE DAMAGES FOR WHICH THE JUDGMENT OF RESTITUTION WAS ENTERED.

2016 Maryland Code State Finance and Procurement Division I - State Finance Title 10 - Board of Public Works -Miscellaneous Provisions Subtitle 5 - Payments § 10-501. Payment to individuals convicted, sentenced, and confined in error

Universal Citation: MD State Fin & Pro Code § 10-501 (2016)

- (a) In general. --
- (1) Subject to subsection (b) of this section, the Board of Public Works may grant to an individual erroneously convicted, sentenced, and confined under State law for a crime the individual did not commit an amount commensurate with the actual damages sustained by the individual, and may grant a reasonable amount for any financial or other appropriate counseling for the individual, due to the confinement.
- (2) In making a grant under paragraph (1) of this subsection, the Board of Public Works shall use money in the General Emergency Fund or money that the Governor provides in the annual budget.
- (b) Eligibility. An individual is eligible for a grant under subsection (a) of this section only if the individual has received from the Governor a full pardon stating that the individual's conviction has been shown conclusively to be in error.
- (c) Payment options. The Board of Public Works may pay the grant determined under subsection (a) of this section in a lump sum or in installments.
- (d) Prohibited payments. --

- 10/23/2017 § 10-501. Payment to individuals convicted, sentenced, and confined in error :: 2016 Maryland Code :: US Codes an...
 (1) The Board of Public Works may not pay any part of a grant made under this section to any individual other than the pardoned individual.
- (2) (i) An individual may not pay any part of a grant received under this section to another person for services rendered in connection with the collection of the grant.
- (ii) An obligation incurred in violation of this paragraph is void.
- (iii) A payment made in violation of this paragraph shall be forfeited to the State.
- (e) Effect of section. This section does not prohibit an individual from contracting for services to:
- (1) determine the individual's innocence;
- (2) obtain a pardon; or
- (3) obtain the individual's release from confinement.

Disclaimer: These codes may not be the most recent version. Maryland may have more current or accurate information. We make no warranties or guarantees about the accuracy, completeness, or adequacy of the information contained on this site or the information linked to on the state site. Please check official sources.

APPENDIX C: Other State's Statutes

National Governors Association Statutes Chart (current as of 10.24.17)				
State	Eligibility	Compensation	Deadline	
Alabama Code of Ala. §29-2-150 et seq	Convicted of a felony; Incarcerated as a result of the conviction; or jailed for two years on a felony charge before having the charge dismissed on grounds of innocence; and Conviction is vacated or reversed and the accusatory document dismissed on grounds of innocence, or accusatory document dismissed on grounds consistent with innocence.	\$50,000 per year of wrongful imprisonment. The Committee on Compensation for Wrongful Incarceration can recommend amounts above \$50,000 but the excess must be approved by the legislature.	Must file within 2 years of exoneration or dismissal of the accusatory instrument.	
Alaska	No statute			
Arizona	No statute			
Arkansas	No statute			
California Calif Penal Code §4900 et seq.	Convicted of a felony and served at least part of the sentence in state prison or county jail; and Pardoned on the grounds of innocence, or is innocent because what s/he was charged with was either not a crime or was not committed by him/her.	\$140 per day of wrongful imprisonment.	Must file for compensation within 2 years after either judgment of acquittal or pardon, or after release from custody.	
Colorado C.R.S. 13-65-101 et seq	Convicted of a felony and served at least part of the sentence; Reliable evidence is presented that s/he was factually innocent of any participation in the crime at issue; Didn't commit, attempt to commit, conspire to commit, or solicit the commission of, the crime at issue or any crime factually related to the crime at issue; Finding of factual innocence can't be based solely on uncorroborated witness recantation.	\$70,000 per year of wrongful imprisonment, plus \$50,000 for each year served while sentenced to execution, plus \$25,000 for each year served on parole or probation or on a sex registry. If the incarceration exceeded three years, the exoneree receives tuition waiver for himself/herself and any children conceived or adopted before incarceration.	Must file for compensation within 2 years after a court reverses or vacates the conviction.	
Connecticut Conn. Gen. Statute 54-102uu	Convicted of a crime and served at least part of the sentence; Conviction was vacated or reversed and (a) the complaint was dismissed on grounds of innocence, or (b) the complaint was dismissed on a ground citing an act or omission that constitutes malfeasance or other serious misconduct by any officer, agent, employee or official of the state that contributed to the arrest, prosecution, conviction or incarceration.	Compensation is "at a minimum, but may be up to two hundred per cent of the median household income for the state for each year such person was incarcerated, as determined by the United States Department of Housing and Urban Development, adjusted for inflation using the consumer price index for urban consumers."	Must file for compensation within 2 years after a pardon or dismissal of complaint.	
Delaware	No statute			
District of Columbia D.C. Code §2-421 et seq.	Convicted of a criminal offense; Imprisoned; Conviction has been reversed or set aside on the ground that the person is not guilty, or on new trial or rehearing was found not guilty, or has been pardoned on the grounds of innocence and unjust conviction; and Based on clear and convincing evidence, did not commit any of the acts charged or the acts or omissions constituted no offense against the United States or the District of Columbia and the person did not, by own misconduct, cause or bring about his/her own prosecution. Not eligible if there was a guilty plea, unless it was an Alford	Court determines fair and reasonable compensation.	Unspecified.	

Florida Fla. Stat. 961.01 et seq	Convicted of a felony and sentenced; Must file a petition showing that "verifiable and substantial evidence of actual innocence exists;" Must not be disqualified. Disqualification exists where (1) before the wrongful conviction there was a conviction or guilty/no contest plea to a felony, or (2) during the wrongful imprisonment there was a conviction or guilty/no contest plea to a felony, or (3) during the wrongful incarceration the person was serving a concurrent sentence for another felony that the person was not wrongfully convicted of.	\$50,000 per year of wrongful imprisonment (up to a maximum of \$2 million); up to 120 hours of tuition at a career center, community college or state university and college or state university and college or state university; reimbursement for any fines or costs imposed at the time of the wrongful sentence; and payment of all attorney fees incurred and paid in connection with the criminal proceedings that led to the wrongful conviction.	Must file petition for certification of actual innocence within 90 days after order vacating the conviction and sentence becomes final. Claim for compensation must be filed within 2 years after court determines person meets definition of "wrongfully incarcerated person."
Georgia	No statute		
Hawaii 2016 Hi. Act 156	Conviction must be reversed or vacated on the grounds of actual innocence, or Pardon granted on grounds of actual innocence. Not eligible for compensation if the state proves (1) the exoneree was concurrently serving a sentence for another crime; (2) the exoneree committed perjury or fabricated evidence or induced another person to commit perjury or fabricate evidence to cause or bring about the conviction at issue; or (3) the exoneree solicited, conspired, attempted to commit, or assisted in the commission of the crime at issue or any crime factually related to the crime at issue.	\$50,000 for each year of wrongful incarceration, and for "extraordinary circumstances" up to \$100,000 in additional compensation. Attorneys assisting exonerees may not charge or receive more than 25% of the compensation.	Must file claim within 2 years after the conviction is reversed or vacated or the exoneree is pardoned.
Idaho	No statute		
Illinois 735 ILCS 5/2-702 (petition for certificate of innocence) 705 ILCS 505/8 (compensation)	Convicted of a felony and imprisoned; Judgment of conviction was reversed or vacated, and the indictment or information dismissed (or, if a new trial was ordered, either found not guilty at the new trial or was not retried and the indictment or information dismissed), or the statute, or application thereof, on which the indictment or information was based violated the Constitution of the United States or the State of Illinois; Innocent of the offenses charged in the indictment or information or his or her acts or omissions charged in the indictment or information did not constitute a felony or misdemeanor against the State; and Didn't voluntarily cause or bring about his or her own conviction.	Up to a total of \$85,350 for imprisonment of 5 years or less; up to a total of \$170,000 for imprisonment of 14 years or less but over 5 years; and up to a total of \$199,150 for imprisonment of over 14 years. Amounts increase with the Consumer Price Index. Also, attorney fees are awarded in an amount not more than 25% of the exoneree's award.	Must file petition seeking certificate of innocence within 2 years after dismissal of indictment or acquittal.
Indiana	No statute		
Iowa Iowa Code 663A.1	Charged with a felony or aggravated misdemeanor; Convicted and did not plead guilty to the charge or to any lesser included offense; Sentenced to an indeterminate term if the offense was a felony or to a term of not more than two years if the offense was an aggravated misdemeanor; Conviction was vacated, dismissed or reversed and no further proceedings can be or will be held based on any facts/circumstances that had been alleged in the proceedings that resulted in the conviction; Imprisonment was solely on the basis of the conviction that was vacated, dismissed or reversed; Court must find by clear and convincing evidence	\$50 per day of wrongful imprisonment; lost wages he/she would have received, up to \$25,000 per year; restitution of fines imposed and paid, attorney fees incurred as a result of the wrongful conviction; and attorney fees for pursuing the claim.	Must file claim within 2 years after entry of a court order finding the person to have been wrongfully imprisoned.
	that the offense was not committed by the person or was not committed by any person.		
Kansas	that the offense was not committed by the person or was not		

Louisiana R.S. 15:572.8	Convicted of a crime and served at least part of sentence; Conviction has been reversed or vacated; Clear and convincing proof demonstrates the person did not commit the crime and did not commit any crime based upon the same set of facts in the original conviction.	\$25,000 per year for each year of wrongful imprisonment, not to exceed a total of \$250,000. The court may also consider requests for payment, up to an additional \$80,000, for job-skills training, medical and counseling services, and tuition. No compensation for times while concurrently serving a sentence for another crime.	Must file claim within 2 years of the date the conviction was vacated or reversed.
Maine M.R.S. §8241	Convicted of a criminal offense and served time; Received a pardon from the governor accompanied by a written finding of innocence, and A court finds the person is innocent.	Up to \$300,000 per wrongful conviction.	Must file within 2 years after being pardoned.
Maryland State Finance and Procurement Code Ann. §10-501	Convicted, sentenced and confined for a crime the individual did not commit; and Full pardon from the governor stating the conviction has been conclusively shown to be in error.	Board of Public Works determines compensation packages based on "actual damages," plus an amount for "financial or other appropriate counseling."	Unspecified.
Massachusetts ALM GL. ch. 258D	Convicted and served time; Full pardon from the governor stating in writing a belief in the individual's innocence, or Granted relief by a court on grounds that tend to establish innocence, and (a) the relief vacates or reverses a felony conviction, and the felony indictment or complaint has been dismissed, or if a new trial was ordered the individual either was found not guilty or was not retried and the felony indictment or complaint was dismissed, and (b) at the time of the filing of a claim for compensation, no criminal proceeding is pending or can be brought against the individual for any act associated with the felony conviction. A person is ineligible if he/she plead guilty to the offense that resulted in the wrongful conviction.	Up to \$500,000 in damages, taking into consideration the income the claimant would have earned; the particular circumstances of the claimant's trial and other proceedings; the length and conditions under which the claimant was incarcerated and; any other factors deemed appropriate under the circumstances in order to fairly and reasonably compensate the claimant. The damages may include an award of medical or other health services, and educational services from any state or community college of Massachusetts.	Must file claim within 2 years after the pardon or grant of judicial relief.
Michigan MCLS 691.1751 et seq	Convicted of a crime and served at least part of the sentence; Conviction was reversed or vacated and charges were dismissed or on retrial the person was found not guilty; and New evidence demonstrates the person was not the perpetrator and was not an accessory or accomplice to the acts that were the basis of the conviction and resulted in a reversal or vacation of the conviction, dismissal, not guilty finding, or pardon.	\$50,000 for every year of wrongful incarceration. Reasonable attorney fees may be awarded in an amount of up to 10% of the total award or \$50,000, whichever is less, and the attorney is not entitled to receive additional fees from the exoneree.	Must file within 3 years after entry of an order reversing or vacating the conviction and dismissing the charges or an order, after retrial, finding the exoneree not guilty.
Minnesota Minn. Stat. 590.01 et seq. Minn. Stat. 611.362 (compensation)	A person is exonerated if a court Vacates or reverses a conviction on grounds consistent with innocence and the prosecutor dismisses the charges, or orders a new trial on grounds consistent with innocence and the prosecutor dismisses the charges or the person is found not guilty on retrial; and the time for appealing the court order resulting in exoneration has expired or the order has been affirmed and is final. A person is eligible for compensation if he/she is exonerated and Convicted of a felony and served any part of the sentence in prison; If convicted of multiple charges arising out of the same incident, was exonerated for all of those charges; Didn't commit or induce anyone to commit perjury or fabricate evidence to cause the conviction; and Wasn't serving time for another crime at the same time. A person who confesses or enters a guilty plea is not ineligible if the	At least \$50,000 and not more than \$100,000 for each year of wrongful imprisonment and between \$25,000 and \$50,000 per year for each year served on supervised release or on a registry. Compensation is based on wage loss, injuries or sickness incurred as a result of imprisonment.	Must file a claim within 60 days after an exoneree receives an order from the court stating he/she is eligible for compensation.

	confession is later found to be false or the guilty plea is to a		
Mississippi Miss. Code Ann. 11-44-1 et seq.	crime the person did not commit. To be eligible a person must establish: Convicted of a felony and served at least part of the sentence; On grounds not inconsistent with innocence: (a) He/she was pardoned and the pardon says it was based on innocence; or (b) the conviction was vacated and/or reversed; If conviction was vacated/reversed, either the indictment was dismissed or a new trial was held and the person was found not guilty; and Didn't intentionally waive any appellate or post-conviction remedy in order to obtain the wrongful conviction compensation. Once eligible, to receive compensation the person must prove: Convicted of a felony and served at least part of the sentence; Either pardoned (and the pardon was based on innocence) or the judgment of conviction was reversed or vacated and dismissed, and if a new trial was held he/she was found not guilty; Didn't commit the felony, or the acts/omissions didn't constitute a felony; and Didn't commit or suborn perjury or fabricate evidence to bring about the conviction.	\$50,000 per year of wrongful incarceration up to a maximum of \$500,000. Payment is made at a rate of \$50,000 per year. Reasonable attorney fees may be awarded in an amount of 10% of the amount awarded for preparing the claim, 20% for litigating the claim if it is contested, and 25% if the claim is appealed. The attorney is not entitled to receive additional fees from the exoneree.	Must file claim within 3 years of the pardon or grant of judicial relief.
Missouri 650.058 R.S.Mo.	Convicted of a felony; and Must be "actually innocent" and be exonerated through DNA testing. Anyone who receives money under the statute is prohibited from suing the state over the wrongful conviction.	\$50 per day for each day of wrongful incarceration, but cannot receive more than \$36,500 per year in statutory compensation.	Unspecified.
Montana 53-1-214, MCA	Convicted of a felony and served time; and Conviction was overturned based on DNA testing that exonerates the person of the crime for which he/she was convicted.	Educational aid at the state's expense.	Benefit is available for ten years after release from prison.
Nebraska R.R.S. Neb. §29-4601 et seq.	Convicted of a felony and served at least part of the sentence; Pardoned, a court has vacated the conviction, or the conviction was reversed and no subsequent conviction was obtained; Innocent of the crime(s); and Didn't commit perjury, fabricate evidence, or otherwise make a false statement to cause or bring about the conviction or the conviction of another. A guilty, a confession, or an admission, coerced by law enforcement and later found to be false, does not constitute bringing about his or her own conviction of the crime.	Up to \$500,000.	Must file claim within 2 years of the pardon or the order vacating or reversing the conviction.
Nevada	No statute		
New Hampshire RSA 541-B:14	Innocent of the crime.	Up to a total of \$20,000 for time "unjustly served in the state prison."	Must file action within 3 years of the "date of injury."
New Jersey N.J. Stat. §52:4C-1	Convicted of a crime and served at least part of the sentence; Didn't commit the crime; Didn't commit or suborn perjury, fabricate evidence, or cause or bring about the conviction; and Didn't plead guilty to the crime; Neither a confession or admission later found to be false constitutes committing or suborning perjury, fabricating evidence, or causing or bringing about the conviction.	Greater of (a) twice the exoneree's income in the year prior to incarceration, or (b) \$50,000 for each year of incarceration. If the amount exceeds \$1 million it will be paid over 20 years.	Must file claim within 2 years of being pardoned or released from prison.
New Mexico	No statute		

New York NY CLS Ct C Act § 8-b	Convicted of a felony and served at least part of the sentence; Pardoned on the grounds of innocence or the conviction was reversed or vacated and the complaint/indictment dismiss (or, if a new trial was ordered, he/she was either not retried or was found not guilty); If conviction was reversed or vacated, it was on grounds of: (a) no jurisdiction; (b) the judgment was procured by duress or /misrepresentation or fraud by a prosecutor or the court; (c) material evidence was false and prior to the entry of judgment was known by the prosecutor or court to be false; (d) the defendant was incapable of understanding the proceedings; or (e) new evidence has been discovered or DNA evidence shows the claimant was innocent or likely would have made the verdict more favorable to the claimant Didn't commit the act; and Didn't by his/her own conduct bring about the conviction.	The court of claims determines an amount that's fair.	Claims must be filed within 2 years after a pardon or dismissal of the complaint/indictment that led to the conviction.
North Carolina N.C. Gen. Stat. §148-82 et seq.	Convicted of a felony and has served time; and Pardoned by the governor on the grounds that either the crime wasn't committed at all or wasn't committed by the claimant, or Has been determined to be innocent and all charges have been dismissed after being convicted after pleading not guilty or no contest.	\$50,000 per year of wrongful imprisonment, up to maximum of \$750,000. Also can be awarded job skills training for one year and tuition and fees for any public North Carolina community college of constituent institution of the University of North Carolina.	Must file within 5 years after pardon or dismissal of charges.
North Dakota	No statute		
Ohio Ohio Rev. Code §2743.48	Found guilty of, but did not plead guilty to, a felony or a lesser included offense; Conviction was vacated, dismissed or reversed on appeal, the prosecutor cannot or will not seek any further appeal, and no criminal proceeding is pending, can be brought, or will be brought for any act associated with the conviction; and After sentencing or during or after imprisonment, an error in procedure resulted in the person's release or it was determined the person either didn't commit the crime or the crime wasn't committed by anyone. To obtain compensation, the person must file an action to be declared a "wrongfully imprisoned individual."	\$43,330 per year of imprisonment, plus any lost wages and attorney fees.	Must file action in court of claims within 2 years after a court enters a determination that the person is a "wrongfully imprisoned individual."
Oklahoma 51 Okla. St. §154	Received a full pardon based on a written finding of actual innocence, or granted judicial relief absolving all guilt on basis of actual innocence. "Actual innocence" means Convicted of a felony without pleading guilty to the charge or to any lesser included offense; Imprisoned solely on the basis of that conviction; and Either pardoned on the basis that he/she didn't commit the crime or a court found by clear and convincing evidence that he/she didn't commit the crime and issued an order vacating, reversing or dismissing the conviction and providing that no further proceedings can or will be held.	Up to \$175,000.	Must file claim within 1 year after pardon or entry of judicial relief based on actual innocence.
Oregon	No statute		
Pennsylvania	No statute		
Rhode Island	No statute		
South Carolina	No statute		
South Dakota	No statute		

Tennessee Tenn. Code Ann. §40-27-109 (exoneration) Tenn. Code Ann. § 9-8-108 (compensation)	Must be exonerated by the governor.	Up to \$1,000,000.	Must file claim with the board of claims within 1 year after the date of exoneration.
Texas Tex. Gov't Code §501.101 Tex. Civ. Prac. & Rem. Code chapter 103	Convicted and served at least part of the sentence; Pardoned for innocence or granted habeas corpus relief based on a finding of actual innocence, or Granted habeas corpus relief and (a) the state has entered an order dismissing the charge and (b) the dismissal order is based on a motion to dismiss in which the state's attorney says no credible evidence exists that inculpates the defendant and the state's attorney says he believes the person is actually innocent.	\$80,000 per year of imprisonment, plus \$25,000 per year for any years spent on parole or as a registered sex offender. Also, tuition for up to 120 credit hours.	Must file claim within 3 years after the pardon or habeas relief.
Utah Utah Code Ann. §78B-9-401 et seq	Must establish factual innocence with clear and convincing evidence, after filing a petition stating: Newly discovered material evidence exists that, if credible, establishes that the petitioner is factually innocent; The specific evidence identified by the petitioner in the petition establishes innocence; The material evidence is not merely cumulative of evidence that was known; The material evidence is not merely impeachment evidence; and Viewed with all the other evidence, the newly discovered evidence demonstrates that the petitioner is factually innocent.	Compensation is provided for each year of wrongful imprisonment, up to a maximum of 15 years, and is calculated based on the average annual nonagricultural payroll wage in Utah at the time of the petitioner's release from prison.	Unspecified.
Vermont 13 V.S.A. §5572 et seq.	Convicted of a felony and served at least six months; Conviction was reversed or vacated, the indictment was dismissed, or the complainant was acquitted after a second or subsequent trial; or the complainant was pardoned for the crime for which he or she was sentenced; Actually innocent, i.e., did not engage in any illegal conduct alleged in the charging documents; and Didn't fabricate evidence or commit or suborn perjury during any proceedings related to the crime.	Between \$30,000 and \$60,000 per year of imprisonment, and may also include damages for lost wages, up to 10 years of health coverage, money for reintegration services and mental/physical health care costs between the time of release and the time of the award, and attorney fees. If the person accepts the compensation he/she releases all claims against the state.	Must file claim within 3 years after exoneration.
Virginia Va. Code Ann. §8.01-195.10 et seq.	Conviction has been vacated or pardon granted on the basis of innocence; Entered a not guilty plea or, regardless of the plea, was sentenced to death, or convicted of a Class 1 felony, a Class 2 felony, or any felony for which the maximum penalty is imprisonment for life; and Didn't intentionally contribute to the conviction.	An amount equal to 90% of the inflation-adjusted Virginia per capita personal income for each year of wrongful imprisonment. 20% of the compensation is paid in a lump sum and the remaining 85% is paid in installments over 25 years. If convicted of a felony after compensation is awarded, the remaining amount is forfeited. Also, acceptance of compensation waives all claims.	Unspecified.
Washington Rev. Code Wash. 4.100.010 et seq.	Convicted of a felony and at least part of the sentence; Not currently incarcerated for any offense; During the wrongful imprisonment was not serving a concurrent sentence for another crime; Pardoned on grounds consistent with innocence, or conviction was reversed or vacated and the indictment dismissed on the basis of significant new exculpatory information (or, if a new trial was ordered either was found not guilty or the claimant was not retried); Didn't engage in any illegal conduct alleged in the indictment; and Didn't commit or suborn perjury, or	\$50,000 per year of wrongful confinement and an additional \$50,000 per year for each year served under a sentence of death, plus \$25,000 per year for each year served on parole or as a registered sex offender. Compensation also includes attorney fees at 10%, not to exceed \$75,000, and counsel is not entitled to any additional fees from the claimant.	Must file claim within 3 years after the pardon or grant of judicial relief.

	fabricate evidence to cause or bring about the conviction.		
West Virginia W.Va. Code §14-2-13a	Arrested and imprisoned for a felony, and charges were dismissed when another person was subsequently charged, arrested and convicted of the same felony; Convicted of a felony and served all or any part of the sentence; or Pardoned on the ground of innocence, or the conviction was reversed or vacated, and the indictment dismissed (or, if a new trial was ordered, was found not guilty or was not retried), or the indictment was based on an unconstitutional statute or its application; Didn't commit the crime, or the acts didn't constitute a felony or misdemeanor in West Virginia; and Didn't cause or bring about the conviction.	Discretion of the court.	Must file claim within 2 years after pardon or dismissal.
Wisconsin Wisc. Stat. 775.05	Clear and convincing evidence of innocence; and Didn't by bring about the conviction by own act or omission.	Up to \$5000 for each year of imprisonment, up to a maximum of \$25,000.	Unspecified.
Wyoming	No statute		

HOUSE BILL 1225

P1, E2 8lr3233 CF SB 987

By: Delegate Dumais Delegates Dumais, Ali, Conaway, Gibson, Hayes, J. Lewis, Moon, Sanchez, and Vallario

Introduced and read first time: February 8, 2018 Assigned to: Judiciary and Ways and Means

Reassigned: Judiciary and Health and Government Operations, February 16, 2018

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 14, 2018

CHAPTER

1 AN ACT concerning

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2 State Finance and Procurement Grant Compensation to Individual
3 Erroneously Convicted, Sentenced, and Confined or Whose Conviction or
4 Adjudication is Reversed

FOR the purpose of altering a provision of law to require, rather than authorize, the Board of Public Works to pay a certain grant certain compensation to a certain individual who has been erroneously convicted, sentenced, and confined; requiring a certain grant certain compensation made by the Board to include certain amounts; requiring certain compensation to include the amounts of certain fines, governmental fees, costs, and restitution; repealing a provision of law limiting eligibility for a cortain grant certain compensation to certain situations in which a State's Attorney has certified that a conviction was in error under a certain provision of law; repealing a provision of law prohibiting the Board from paying a certain part of a certain grant to any individual other than an erroneously convicted individual; repealing a provision of law prohibiting an individual from paying a certain part of a certain grant received to another person for certain services; providing that certain provisions do not prohibit an individual from contracting for legal services to obtain certain compensation; establishing certain reporting requirements; requiring the Board to direct a certain person to provide certain services to an individual who receives a certain grant certain compensation; requiring the Board to contact a certain individual within a certain period of time to develop a certain plan for providing certain services; establishing the purpose of a plan developed under this Act; requiring the Board to pay certain compensation to an individual if a court

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

Strike out indicates matter stricken from the bill by amendment or deleted from the law by amendment.

	2 HOUSE BILL 1220	
1	reverses finally the conviction or adjudication of the individual; allowing an	
2	individual a subtraction modification under the Maryland income tax for the amount	
3	of a certain grant certain compensation to and the value of certain services received	
4	by a person erroneously convicted, sentenced, and confined under State law; making	
5	conforming changes; providing for the application of this Act; and generally relating	
6	to grants compensation to individuals erroneously convicted, sentenced, and	
7	confined and individuals whose convictions or adjudications are reversed by a court.	
8	BY repealing and reenacting, with amendments,	
9	Article – State Finance and Procurement	
10	Section 10-501	
11	Annotated Code of Maryland	
12	(2015 Replacement Volume and 2017 Supplement)	
13	BY adding to	
14	Article – State Finance and Procurement	
15	Section 10-502, 10-503, and 10-504	
16	Annotated Code of Maryland	
17	(2015 Replacement Volume and 2017 Supplement)	
18	BY repealing and reenacting, without amendments,	
19	Article – Tax – General	
20	Section 10-207(a)	
21	Annotated Code of Maryland	
22	(2016 Replacement Volume and 2017 Supplement)	
23	BY adding to	
24		
25	Section 10-207(gg)	
26	Annotated Code of Maryland	
27	(2016 Replacement Volume and 2017 Supplement)	
28	SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,	
29	That the Laws of Maryland read as follows:	
30	Article - State Finance and Procurement	
31	10–501.	
32	(a) (1) Subject to subsection (b) of this section, the Board of Public Works	
33	[may] SHALL grant to COMPENSATE an individual erroneously convicted, sentenced, and	
34	confined under State law for a crime the individual did not commit IN an amount	
	사용사용 기업 전략	
35	commensurate with EQUAL TO THE GREATER OF:	
36	(I) \$50,000 FOR EACH YEAR THAT THE INDIVIDUAL WAS IN	
37	CUSTODY; OR	

HOUSE BILL 1225

1	(11) the actual damages sustained by the individual, and may grant
2	a reasonable amount for any financial or other appropriate counseling for the individual,
3	due to the confinement INCLUDING THE AMOUNTS OF ANY FINES, GOVERNMENTAL
4	FEES, COSTS, AND RESTITUTION PREVIOUSLY PAID BY THE INDIVIDUAL AND
5	DETERMINED BY A COURT TO BE OWED TO THE INDIVIDUAL.
6	(2) THE BOARD OF PUBLIC WORKS MAY PROVIDE ADDITIONAL
7	COMPENSATION FOR APPROPRIATE COUNSELING, INCLUDING FINANCIAL
8	COUNSELING, TO THE INDIVIDUAL ERRONEOUSLY CONVICTED.
9	(2) A GRANT UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL
10	INCLUDE:
11	(I) AT LEAST \$50,000 FOR EACH YEAR THAT THE INDIVIDUAL
12	WAS IN CUSTODY; AND
13	(II) (3) IN ADDITION TO THE COMPENSATION AWARDED
14	UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE BOARD OF PUBLIC WORKS
15	SHALL COMPENSATE THE INDIVIDUAL A REASONABLE AMOUNT NOT EXCEEDING
16	\$10,000 FOR PAYMENT OF THE INDIVIDUAL'S LIVING EXPENSES ON RELEASE FROM
17	CONFINEMENT.
130.51	
18	(4) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS
19	PARAGRAPH, AN INDIVIDUAL WHO SEEKS COMPENSATION UNDER THIS SECTION
20	MAY NOT FILE OR MAINTAIN A SEPARATE LEGAL ACTION FOR COMPENSATION FROM
21	THE STATE OR A LOCAL GOVERNMENT FOR AN ERRONEOUS CONVICTION,
22	SENTENCE, OR CONFINEMENT.
100000	
23	(II) IF THE BOARD OF PUBLIC WORKS DENIES AN APPLICATION
24	BY AN INDIVIDUAL FOR COMPENSATION UNDER THIS SECTION, THE INDIVIDUAL MAY
25	MAINTAIN A SEPARATE LEGAL ACTION FOR COMPENSATION FROM THE STATE OR A
26	LOCAL GOVERNMENT FOR AN ERRONEOUS CONVICTION, SENTENCE, OR
27	CONFINEMENT.
28	(3) In making a grant under paragraph (1) of this subsection, the Board of
29	Public Works shall use money in the General Emergency Fund or money that the Covernor
30	provides in the annual budget.
833	
31	(b) An individual is eligible for a grant COMPENSATION under subsection (a) of
32	this section if:
33	 the individual has received from the Governor a full pardon stating that
34	the individual's conviction has been shown conclusively to be in error; or

4 HOUSE BILL 1225 the State's Attorney certifies that the individual's conviction was in 1 error [under § 8-301 of the Criminal Procedure Article]. 3 The Board of Public Works may pay the grant COMPENSATION determined 4 under subsection (a) of this section in a lump sum or in installments. 5 The Board of Public Works may not pay any part of a grant made under 6 this section to any individual other than the erroneously convicted individual-7 (1) An individual may not pay any part of a grant THE (i) (D) 8 COMPENSATION received under this section to another person for services rendered in connection with the collection of the grant COMPENSATION. 10 $\frac{(ii)}{(2)}$ An obligation incurred in violation of this paragraph is 11 void. (iii) (3) 12 A payment made in violation of this paragraph shall be 13 forfeited to the State. 14 This NOTWITHSTANDING SUBSECTION (D) OF THIS SECTION, THIS section does not prohibit an individual from contracting for LEGAL services to: 15 16 determine the individual's innocence; (1) 17 (2)obtain a pardon; or 18 (3)obtain the individual's release from confinement; OR 19 (4) OBTAIN COMPENSATION UNDER THIS SECTION. ON OR BEFORE DECEMBER 31, 2018, AND ANNUALLY 20 (D) (F) 21 THEREAFTER, THE BOARD OF PUBLIC WORKS SHALL REPORT TO THE GENERAL

- 24 10-502.
- 25 (A) FOR AN INDIVIDUAL WHO RECEIVES A GRANT UNDER § 10 501 OF THIS
 26 SUBTITLE, THE BOARD OF PUBLIC WORKS SHALL ALSO PROVIDE TO THE
 27 INDIVIDUAL FREE OF CHARGE:

22 ASSEMBLY, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE,

23 ON ANY GRANTS COMPENSATION AWARDED UNDER THIS SECTION.

- 28 (A) FOR AN INDIVIDUAL WHO RECEIVES COMPENSATION UNDER § 10-501
 29 OF THIS SUBTITLE, THE BOARD OF PUBLIC WORKS SHALL DIRECT THE
 30 APPROPRIATE STATE AGENCY OR SERVICE PROVIDER, OR CONTRACT WITH AN
- 31 APPROPRIATE ENTITY, TO PROVIDE TO THE INDIVIDUAL FREE OF CHARGE:

- 1 (1) A STATE IDENTIFICATION CARD AND ANY OTHER DOCUMENT 2 NECESSARY FOR THE INDIVIDUAL'S HEALTH OR WELFARE ON THE INDIVIDUAL'S
- 3 RELEASE FROM CONFINEMENT:
- 4 (2) HOUSING ACCOMMODATIONS AVAILABLE ON THE INDIVIDUAL'S
 5 RELEASE FROM CONFINEMENT FOR A PERIOD NOT EXCEEDING 5 YEARS;
- 6 (3) EDUCATION AND TRAINING RELEVANT TO LIFE SKILLS AND JOB
 7 AND VOCATIONAL TRAINING FOR A PERIOD OF TIME UNTIL THE INDIVIDUAL ELECTS
 8 NO LONGER TO RECEIVE THE EDUCATION AND TRAINING;
- 9 (4) HEALTH CARE AND DENTAL CARE FOR AT LEAST 5 YEARS AFTER
 10 THE INDIVIDUAL'S RELEASE FROM CONFINEMENT; AND
- 11 (5) ACCESS TO ENROLLMENT AT AND PAYMENT OF TUITION AND FEES 12 FOR ATTENDING A PUBLIC SENIOR HIGHER EDUCATION INSTITUTION, A REGIONAL
- 13 HIGHER EDUCATION CENTER, OR THE BALTIMORE CITY COMMUNITY COLLEGE FOR
- 14 A PERIOD OF ENROLLMENT NOT EXCEEDING 5 YEARS.
- 15 (B) (1) THE BOARD OF PUBLIC WORKS SHALL CONTACT AN INDIVIDUAL
 16 PRIOR TO BEFORE THE INDIVIDUAL'S RELEASE FROM CONFINEMENT TO DEVELOP A
 17 PLAN FOR PROVIDING SERVICES UNDER THIS SECTION.
- 18 (2) THE PURPOSE OF THE PLAN DEVELOPED UNDER THIS
 19 SUBSECTION IS TO ENSURE THAT THE INDIVIDUAL IS ABLE TO SUCCESSFULLY
 20 REENTER AND REINTEGRATE INTO THE COMMUNITY AFTER THE INDIVIDUAL HAS
 21 BEEN RELEASED FROM CONFINEMENT.
- 22 (C) ON OR BEFORE DECEMBER 31, 2018, AND ANNUALLY THEREAFTER, THE
 23 BOARD OF PUBLIC WORKS SHALL REPORT TO THE GENERAL ASSEMBLY, IN
 24 ACCORDANCE WITH § 2–1246 OF THE STATE GOVERNMENT ARTICLE, ON THE
 25 SERVICES PROVIDED UNDER THIS SECTION.
- 26 10-503.
- 27 (A) This section does not apply to an individual who receives 28 compensation under § 10-501 of this subtitle.
- 29 (B) IF A COURT REVERSES FINALLY THE CONVICTION OR ADJUDICATION OF 30 AN INDIVIDUAL AND ORDERS THAT FINES, GOVERNMENTAL FEES, COSTS, OR
- 31 RESTITUTION THAT WERE PAID BY THE INDIVIDUAL IN CONNECTION WITH THE
- 32 CONVICTION OR ADJUDICATION BE REFUNDED, THE BOARD OF PUBLIC WORKS
- 33 SHALL COMPENSATE THE INDIVIDUAL FOR THE AMOUNT DETERMINED BY THE

HOUSE BILL 1225

- 1 COURT TO BE OWED TO THE INDIVIDUAL FOR FINES, FEES, COSTS, AND RESTITUTION
- 2 PREVIOUSLY PAID BY THE INDIVIDUAL.
- 3 10-504.

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- 4 IN AWARDING COMPENSATION UNDER THIS SUBTITLE, THE BOARD OF PUBLIC
- 5 Works shall use money in the General Emergency Fund or money that
- 6 THE GOVERNOR PROVIDES IN THE ANNUAL BUDGET.
- 7 SECTION 2. AND BE IT FURTHER ENACTED. That the Laws of Maryland read 8 as follows:
- 9 Article Tax General
- 10 10-207.
- 11 (a) To the extent included in federal adjusted gross income, the amounts under 12 this section are subtracted from the federal adjusted gross income of a resident to determine
- 13 Maryland adjusted gross income.
- 14 (GG) THE SUBTRACTION UNDER SUBSECTION (A) OF THIS SECTION INCLUDES
- 15 THE AMOUNT OF A GRANT ANY COMPENSATION UNDER § 10-501 OR § 10-503 OF THE
- 16 STATE FINANCE AND PROCUREMENT ARTICLE AND THE VALUE OF ANY SERVICES
- 17 RECEIVED UNDER § 10-502 OF THE STATE FINANCE AND PROCUREMENT ARTICLE
- 18 BY A PERSON ERRONEOUSLY CONVICTED, SENTENCED, AND CONFINED UNDER
- 19 STATE LAW.
- 20 SECTION 3. AND BE IT FURTHER ENACTED, That Section 1 of this Act shall be
- 21 construed to apply only prospectively and may not be applied or interpreted to have any
- 22 effect on or application to any compensation awarded by the Board of Public Works before
- 23 the effective date of this Act.
- 24 SECTION 2. 4. AND BE IT FURTHER ENACTED. That this Act shall take effect
- 25 July 1, 2018, and Section 2 of this Act shall be applicable to all taxable years beginning
- 26 after December 31, 2018 2017.
- 27 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect July
- 28 1, 2018.

APPENDIX E: News Articles

1,700 cases affected by corrupt Baltimore police Gun Trace Task Force, State's Attorney Mosby says



An ongoing review by the Baltimore State's Attorney's office has whittled down the number of cases affected by the police department's corrupt Gun Trace Task Force from nearly 3,000 to about 1,700, Marilyn J. Mosby told the City Council on Monday night. (Kevin Richardson / Baltimore Sun)



JUNE 5, 2018, 9:20 AM

A n ongoing review by the Baltimore state's attorney's office has whittled down the number of cases affected by the Police Department's corrupt Gun Trace Task Force from nearly 3,000 to about 1,700, Marilyn J. Mosby told the City Council this week.

Mosby said at a budget hearing Monday night that Deputy State's Attorney Janice Bledsoe has been reviewing cases to see whether the eight officers of the task force were material witnesses against defendants charged with and convicted of serious crimes.

"Some of these individuals who have been convicted are really dangerous individuals," Mosby said of the defendants. "We make an assessment based on the materiality of the officers. If the officer is a material witness, then we are not going to proceed on those cases. That means not only the open cases we're not going to proceed, but we also go back" and vacate convictions.

Mosby said her office was in the process of hiring law clerks to assist with the work.

"My deputies are the ones who are going into court and arguing these cases. It's drained a great deal of resources," Mosby said. "It's extremely time consuming."

In February, Mosby said her office's preliminary estimate was that thousands of cases were impacted by eight city officers who have been found guilty of racketeering for using their badges to rob people, including two detectives who were convicted by a federal jury. The initial allegations in the federal indictment dated from 2015, but officers cooperating with the government have testified to committing crimes as far back as 2008.

In December, the state's attorney's office said about 125 cases had been dropped or the defendant's conviction had been vacated as a result of allegations against the gun task force officers.

Four of the eight convicted officers are scheduled to be sentenced this week. Former Sgt. Wayne Jenkins, who pleaded guilty and was the leader of the Gun Trace Task Force, and former Det. Marcus Taylor, who was convicted at trial, will be sentenced Thursday. Former Detective Maurice Ward and former Detectuve Evodio Hendrix, who both pleaded guilty and testified against fellow officers, will be sentenced Friday.

Mosby's testimony came during a rescheduled budget hearing for the city prosecutor's office. Last week, when she didn't attend a hearing before the City Council, it sparked conflict with the chairman of the budget committee, Councilman Eric T. Costello. Her office said she already was committed to attend a community event and asked several times for a postponement ahead of a hearing.

"I am extremely disappointed that the head of the agency is unable to join us this evening," said Costello, citing the size of the state's attorney's office, which employs nearly 400 people and receives around \$36.6 million from the city each year.

He rescheduled the meeting for Monday night.

Costello is supporting Mosby's opponent Ivan Bates in the state's attorney's race. At the rescheduled hearing, Costello recused himself from chairing the meeting due to his political support of Bates.

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This article is related to: Marilyn J. Mosby, Gun Trace Task Force, Janice Bledsoe

- Home Local News
- Sports Ravens

After murder exoneration, freed man wonders how case went wrong

Demetrius Smith spent five years locked up, convicted in the death of a man he did not kill.



(Kenneth K. Lam/Baltimore Sun Photo) BY IAN DUNCAN | THE BALTIMORE SUN

Demetrius Smith knew a man had been murdered in his Southwest Baltimore neighborhood. But that's all he knew — until two police trucks pulled up on a warm summer morning and whisked him to the homicide division at police headquarters.

Detectives had rounded up two people who said they saw Smith shoot 36-year-old Robert Long to death near a set of Southwest Baltimore train tracks in March 2008.

"I thought it was a joke," Smith said, recalling the moment when he read the brief statement of charges that had been slipped under his door at Central Booking.

Five years would pass before Smith walked free, exonerated by a federal investigation that began with an old lead.

When he died, Long was an informant in a Baltimore police investigation of a construction materials theft scheme. City homicide detectives had disregarded that connection, and Smith still can't understand why authorities were so quick to point the finger at him.

"I sat in there five years, back and forth o for court in chains, shackles," Smith, 30, said in his first interview since being set free. "All of that for nothing."

Wrongful murder convictions are rare, but each one raises questions about the legal safeguards in place to protect innocent people. At least 15 convicted killers have been exonerated in Maryland over the past 20 years.

Investigative documents from Smith's case, reviewed by The Baltimore Sun, show how a few missteps and wrong turns can lead to an unjust outcome: Detectives following one lead fail to account for another. Witnesses lie in court. Prosecutors sell jurors on a bad case.

"When you study these exonerations, it's really humbling to see how many ways people err," said Brandon L. Garrett, a University of Virginia law professor who studies wrongful convictions.

Long's mother, Grace Bouvier, sat through the trial, and believed Smith when he looked her in the eye and said he was innocent. Nobody who knew Long would have believed the story laid out by authorities in court, she said.

"I blame the police department and I'm pretty sure [Smith and his family] do too," Bouvier said.

City police and prosecutors defend their handling of the case, arguing that they never anticipated what a federal investigation would turn up.

"Officers follow a strict set of protocols when investigating homicides in conjunction with other agencies and we're confident that's what happened in this case," said J. Eric Kowalczyk, a Baltimore police spokesman. "After a state trial, clearly the federal government found that facts had changed."



From court documents

Robert Long

Even before he died, Long was on the radar of the police department's radar as a defendant and potential witness in a series of thefts from construction sites. In the weeks before his murder, Long had been interviewed by a special police task force that investigates thefts. He told detectives what he knew about Jose Morales, his boss and co-defendant.

Officers told Long to keep his cooperation quiet, but he told a few friends and word drifted back to Morales. Long had also called his mother in Texas and said he was working with the police.

"I told him, 'Son, be careful, he'll kill you," Bouvier recalled. Long told her he'd never do it. "He won't kill you but he'll have somebody else do it." she warned.

Long was found behind Traci Atkins Park on the day after Easter with two .25-caliber bullet wounds to his head, along with heroin and cocaine in his system. Years later, the remote location is no less gritty. A rail car stands rusting on a set of tracks that lead nowhere; nearby is a pile of discarded railroad ties.

Baltimore homicide detectives Steve Hohman and Charles Bealefeld arrived at that scene in 2008 and set to work in a morning chill.

Bouvier rushed to Baltimore and quickly sat down with Hohman to share her suspicions about Morales. Hohman also learned that a man who worked with Morales owned a .25-caliber gun and that the weapon had gone missing after the murder.

The detective convinced a judge to issue a court order for Morales' phone records. He later told investigators he also spoke to the man who owned the gun, and according to records, formally interviewed the man's brother. They both admitted to being with Long the night before he died. But Hohman did not approach Morales, according to police files, and he later said he never got the phone data.

Within a few weeks, police had departed from that trail and began looking toward Smith.

Investigators got a tip from someone described in police records as a "block watcher," and Hohman put out a bulletin on May 8 asking officers to keep a look out for Mark Bartlett, a convicted thief who was said to know something about the slaying.

Bartlett was arrested on a probation violation charge within two weeks and brought to Hohman. He said he had witnessed the killing, and identified Smith as the shooter. A week later, police tracked down an admitted drug addict named Michelle McVicker, according to the investigative file.

It is not clear how McVicker surfaced — Hohman said at Smith's trial that she was pointed out by a confidential source; she claimed Hohman told her she was visible in footage from a nearby surveillance camera.

Whatever the case, her story matched up with Bartlett's. Smith was arrested on July 10 and interviewed by Hohman in a room at police headquarters.

Smith recalled, "He kept telling me, 'Help yourself out,' and I'm like, 'What do you mean help myself out? Help myself out with what?"

Hohman gave nothing away, Smith said, and he did not find out about the charges against him until he received a copy of the arrest warrant in jail that day.

In his closing arguments at Smith's 2010 murder trial, Assistant State's Attorney Richard Gibson made a compelling case. Bartlett and McVicker described the murder in a way that seemed to align with the location of Long's body and the number of shell casings found at the

Bartlett had testified that Long had stolen a stash of heroin Smith had been hiding in a vacant house. Smith has a drug conviction from 2004, but prosecutors provided no other evidence that he was a dealer at the time of Long's murder, according to court records.

Still, Gibson told jurors in his closing argument: "This was done to send a message, and the defendant's message was simple: 'If you steal from me, if you mess with my business, I will kill you. You will die."

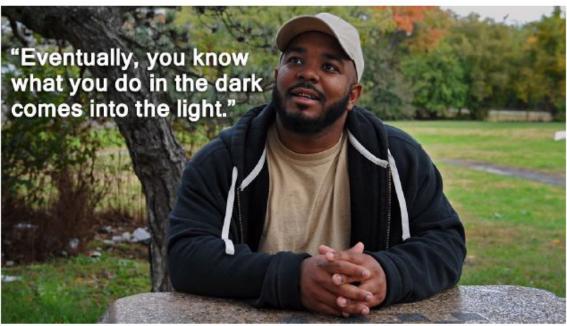
Gibson also said that police had been thorough in their investigation.

"All the pieces fit together," he said. "No stone was left unturned."

Smith's lawyer, Anne-Marie Gering, attacked the credibility of the prosecution's witnesses in her closing argument and pushed the Morales angle.

"The fact two weeks, just two weeks, before Robert Long dies he agreed to testify ... is significant," Gering said in court. "Of course Jose Morales is going to be upset."

But 12 twelve Baltimore jurors returned a guilty verdict after three hours of deliberation. Circuit Judge Timothy J. Doory sentenced Smith to life plus 18 years.



(Kenneth K. Lam/Baltimore Sun Photo)

Long's family was unconvinced by the story they had seen play out in court.

"Smith stood right up in the courtroom when he was sentenced and said, Miss, I did not know Robert, I did not kill your son," Bouvier said recently. "I believed him."

Eventually, so did the U.S. attorney's office.

"It's not the fault of the state prosecutor; they had witnesses but the witnesses were lying," U.S. Attorney Rod J. Rosenstein said. "Smith had nothing at all to do with this crime."



Rarah/Baltimore City Paper photo obtained from court documents

Jose Morales

Rosenstein said he had become interested in Morales through an article in the Baltimore City Paper. Headlined "With Impunity" it described a "14-year adult criminal career of unsafe construction, violations of building and zoning codes, theft, assault, drug dealing, and fire setting."

So when Morales was arrested at a small Texas airport near the Mexican border with six kilograms of cocaine and thousands of dollars—and implicated his attorney, Stanley Needleman, in Long's murder—Rosenstein sent two prosecutors from his office.

The U.S. attorney's office shared its concerns about the Smith case with state prosecutors back in Maryland on April 15, 2011. Mark Cheshire, a spokesman for the state's attorney's office, said prosecutors began reviewing the evidence that spring.



Rarah/Baltimore City Paper photo obtained from court documents

Stanley Needleman

Court records show the office was initially reluctant, but the Morales angle got stronger when Needleman came under suspicion of tax evasion and agreed to cooperate with authorities.

In early 2011, federal and state authorities began working together to review the case against Smith.

By that time, Bartlett was dead, after collapsing at home, but on April 27, 2011, investigators quizzed McVicker at the U.S. Courthouse in Greenbelt. She recanted her story and said Hohman dropped hints such as like the race of the suspect and the victim and details about the scene, according to notes included in the investigative file.

The Drug Enforcement Administration also came and interviewed Smith at the Cumberland prison where he was being held.

He had no inkling they were working to exonerate him. His case was on appeal and Smith said he was worried they were looking for new evidence to keep him locked up.

"I was ready to get up and leave," Smith said. "The way I was feeling, — what was you questioning me for? I got life plus 18."

Eventually the state's attorney's office was convinced and in August 2012 filed to reopen Smith's case.

"When all the evidence was considered we reached the decision to dismiss the case," Cheshire said. "Law enforcement does not have the benefit of hindsight or any future evidence, and in this case a jury convicted the defendant based on the evidence presented."

Legal scholars who study wrongful convictions say such cases often follow familiar patterns.

Detectives and prosecutors often suffer from "confirmation bias" in which they regard information that supports a theory more highly than details that contradict it, said Colin Starger, a University of Baltimore Law School professor and former Innocence Project attorney. That national organization uses DNA evidence and other means to free people who are wrongfully convicted.

Such bias can subconsciously affect witnesses when they pick out people in lineups. McVicker, for example, said that she made one choice but Hohman asked whether she was sure and she changed her mind.

"That is the single most common thing that you see, a bad eyewitness identification," Starger said.

Morales was indicted in the slaying, and at his trial this September, prosecutors laid out how he coordinated with two brothers to have Long killed. After a wild night bingeing on cocaine and heroin, authorities said, one of the brothers led Long onto the tracks by Traci Atkins Park and fixed the two fatal shots.

Morales was convicted and faces a mandatory life sentence.

Key to the federal case were the records of Morales' calls that night and morning; authorities said they showed he had been in close contact with the gunman. Hohman told a Baltimore detective who was working with federal investigators he did not recall those records ever being turned over to him.

In the same interview, included in the investigative file, Hohman said he did not interview Morales because he did not have enough to information to charge him.

"I went where the evidence took me," Hohman said at the end of the 25-minute interview, according to the notes.

Baltimore police declined to make Hohman available for an interview, but Bealefeld — who said he left the case after a few days — said investigators acted in good faith, despite the outcome.

"I'm glad for [Smith] that he's not sitting in jail for a long time for something he didn't do," said Bealefeld, who now works for Annapolis police.

Bouvier, who lives in Texas City, Texas., plans to testify at Morales' December sentencing and hopes Morales will help convict the man who pulled the trigger.

"If he had any decency left in him, he should give up the shooters," Bouvier said. "He should let my family and our son rest in peace."

At Morales' trial, prosecutors named the owner of the missing .25-caliber handgun as the shooter, but he has not been charged.

Smith was released from prison in May - almost five years to the day after becoming a murder suspect.

Now he's trying to get back to work. That's not easy with a dropped murder charge still on his record, but the Living Classrooms Foundation has arranged for him to do demolition and he has work setting up events at a museum.

He's also trying get to know his two daughters, who were young children when he went to prison but are now heading into their teenage years.

Smith says the ordeal destroyed his faith in the criminal justice system. But despite everything that happened to him, he never gave up.

"I always kept hope," Smith said. "Eventually you know what you do in the dark comes into the light."

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From wrongful conviction to release

In 2008, Demetrius Smith was arrested for a Southwest Baltimore murder he did not commit. Five years passed before he would walk free.

- Robert Long is found dead in March 2008, days after being questioned in a series of thefts from construction sites.
- Long's mother shares concerns with police about his boss Jose Morales.
- Mark Bartlett and Michelle McVicker identify Smith as Long's killer.
- Smith is convicted of murder in January 2010.
- In April 2011, Baltimore prosecutors began reviewing Smith's case, prompted by Morales' August 2008 arrest at a South Texas airport.
- McVicker recants her story about Smith's involvement. Needleman corroborates Morales' involvement in Long's murder.
- In August 2012, prosecutors file to reopen Smith's case.
- The next month, Morales is charged with hiring a man to kill Long.
- Smith is set free in May 2013.
- Morales is convicted of setting up Long's murder.

Baltimore man exonerated of murder after 30 years in prison

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the Conviction Integrity Unit (CIU) at the Baltimore City State's Attorney's Office announced that it would agree to vacate the conviction and dismiss all charges against Jerome Johnson, a 50-year-old client of the Mid-Atlantic Innocence Project (MAIP). Jerome has spent the last 30 years in prison for a murder he did not commit.



JULY 2, 2018, 11:40 AM

P or 30 years, Jerome Johnson maintained that he was innocent of the 1988 killing of a Baltimore man inside the Nite Owl bar.

On Monday, a judge agreed.

Johnson, convicted of murder in the death of Aaron Taylor, was exonerated Monday and set free. He had been convicted on inconsistent and faulty witness testimony, his defense attorneys and prosecutors say.

The 50-year-old stepped from the Baltimore Circuit Courthouse downtown, hugged his younger brother, and softly thanked his attorneys before a crowd of onlookers.

"Any ill feelings?" he was asked.

"No," he said.

"What's the first thing you're going to do?"

"Get me a home-cooked meal," he said.

Johnson has spent his entire adult life in prison. He tried several times to get his conviction overturned.

"Today marks the first time in 30 years that the criminal justice system has worked for Jerome," said Shawn Armbrust, executive director of the Mid-Atlantic Innocence Project. The nonprofit at The George Washington University helped set him free.

Johnson served most recently in the state prison in Hagerstown, where he woke each morning at 5:30 to pray and work out. Once free Monday afternoon, he hugged his brother and shook hands with his three nephews.

"He looks at it like it was part of his journey," said his brother, Shawn Morgan. "He's very spiritual."

Taylor was killed 30 years ago this month. Witnesses told police Taylor had been arguing with several men on the street outside the Nite Owl on Woodland Avenue in Park Heights. Someone drew a gun and tried to shoot Taylor, witnesses said, but he ran inside.

One man followed and killed him.

Four men were charged with murder: Johnson, Reginald Dorsey, Alvin Hill and Thomas Carroll. Jurors acquitted Carroll. They convicted Dorsey, Hill and Johnson.

Several witnesses placed Dorsey and Hill at the killing. Only one implicated Johnson: the lead witness, a 15year-old girl.

Assistant Baltimore State's Attorney Lauren Lipscomb, chief of the conviction integrity unit, read an account of the investigation in the courtroom Monday.

Libscomb said the girl initially told investigators the shooter pulled a gun from his waistband. Later, Lipscomb said, the girl changed her story: She told police that Johnson handed Hill the gun.

Johnson's defense attorneys were not told of the girl's first statement, Lipscomb said.

Johnson repeatedly challenged the case. Over the years, new evidence emerged.

Prosecutors say a witness in 1997 placed Johnson some distance from the scene of the killing. The shooter admitted to the crime in 2000, prosecutors say, and said Johnson wasn't there.

Johnson's case was taken up five years ago by Nancy Forster, the former public defender of Maryland. She investigated further and contacted Lipscomb's unit, which then recruited help from the Mid-Atlantic Innocence

Project.

The nonprofit, founded in 2000, works to correct and prevent the conviction of innocent people in Maryland, Virginia and the District of Columbia. Officials say they have helped secure the release and exoneration of 28

innocent men who served a combined 494 years in prison for crimes they did not commit.

On Monday, Lipscomb presented the new evidence to Judge Charles Peters and asked for a new trial. Then she

dropped the charges against Johnson.

Outside the courthouse, Baltimore State's Attorney Marilyn J. Mosby thanked Taylor's family for supporting the

exoneration.

"My heart breaks for the family of Aaron Taylor," Mosby said. "I thank them for their wisdom and their grace.

"My heart also breaks for Mr. Jerome Johnson, who must now reconcile that we live in a world that can take 29

prime years away from an innocent man for a crime in which he had no part."

Mosby apologized publicly to Johnson.

He is the third wrongly convicted man who has been exonerated during her administration. Malcolm Bryant was exonerated of murder in May 2016 by DNA evidence and set free after 17 years in prison. Lamar Johnson

was exonerated of murder in September after serving 13 years in prison.

Prosecutors said they interviewed dozens of witnesses and spent nine months investigating the old murder

before asking a judge to exonerate Johnson.

Outside the courthouse, Johnson hugged Forster. She kissed him on the cheek.

Then she sent him off with a gift bag. Inside was a book on Nelson Mandela, the South African statesman who

spent 27 years in prison, and a blank journal for Johnson to chronicle his life as a free man.

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This article is related to: Homicide, Marilyn J. Mosby, Nelson Mandela

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Baltimore paid a wrongfully convicted man \$9M to resolve a lawsuit. Is there a cheaper, quicker way to settle cases?



MAY 4, 2018, 1:10 PM

A lmost a decade passed between the time when James L. Owens Jr. was freed from prison for a crime he didn't commit and Baltimore agreed to pay him \$9 million to resolve a lawsuit.

Officials and advocates who have been reviewing how to handle such wrongful convictions have an idea to speed up the process — and potentially save taxpayers money.

Owens was convicted of murder in 1988 in the death of 24-year-old Colleen Williar, but DNA evidence eventually cleared his name. He was released from prison in 2008 and sued the detectives and prosecutors who sent him to prison.

The city eventually agreed to settle the case — the largest such deal ever reached in Baltimore — but not before it spent 7 years in court, a journey that included a trip to a federal appeals court in Richmond.

A state task force on wrongful convictions has proposed another option. Instead of going to court, those who have been exonerated would be able to take their case to the state's Board of Public Works and get \$50,000 for each year they spent locked up.

Under that system, the 21 years Owens spent in custody would have worked out to about \$1 million. The amount is much lower than his settlement, but his attorney said he would likely have given it real consideration.

Andy Freeman, the lawyer, said the calculation would come down to how quickly and with what certainty someone coming out of prison can expect to get paid.

For others, such a system might be their only chance to get compensation.

"There are lots of wrongfully incarcerated people who don't meet the legal standards for bringing a lawsuit," Freeman said. "The years that they spent were as horrible as the years Mr. Owens spent."

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board for payment now, but the board can deny rd to pay. The General Assembly considered legislation to implement the proposal this year. It passed in the House of Delegates, but not in the Senate.

Scott Shellenberger, Baltimore County's state's attorney and chairman of the wrongful conviction task force, said he's hopeful lawmakers will take up the idea again when they return to session in 2019.

"There's a good argument to be made next year," Shellenberger said.

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Jury awards \$15 million to Baltimore man exonerated of murder



Sabein Burgess, who says he was wrongfully convicted of murdering his own girlfriend sued the city of Baltimore, and was awarded \$15 million. (WJZ video)



NOVEMBER 21, 2017, 7:20 PM

fter more than two decades, Sabein Burgess said, he finally has closure.

Burgess, 47, was charged with murdering his girlfriend in 1994 and sentenced to life plus 20 years in prison. He was freed in 2015 after the state conceded he did not commit the crime.

On Tuesday, a federal jury awarded him \$15 million for the wrongful conviction in his suit against the Baltimore Police Department and two police detectives.

"Finally, justice has been served," Burgess said during a news conference outside the courthouse Tuesday night.

"It wasn't about the money. It was about wanting the truth to come out."

Burgess was joined by his team of lawyers from Loevy & Loevy, as well as his family and the family of the victim.

Jon Loevy, a Chicago-based civil rights attorney who represented Burgess, said the \$15 million verdict ranks among the largest nationwide for a wrongful-conviction case.

"The jury today decided that his constitutional rights had been violated, that evidence had been suppressed from him and the case against him had been fabricated," Loevy said.

The jury deliberated for less than three hours, he said.

Burgess did not go into the civil trial seeking a specific amount of damages.

"We asked the jury to use their discretion," Loevy said. "This is fair for what Mr. Burgess suffered."

Burgess' defense argued that two now-retired Baltimore homicide detectives — Gerald Goldstein and Steven Lehman — pinned the murder on him without looking into credible alternatives. The detectives' actions, they argued, led to Burgess' spending two decades in prison, including a year served in solitary confinement.

In October 1994, officers responded to a house in the Harwood neighborhood of Baltimore where Michelle Dyson was found shot to death. Burgess was there, cradling her body, and police took him into custody. During an hours-long interrogation, Burgess said he wasn't involved in the killing and that he wanted Dyson's killer to be caught.

He was released, and then charged a month later after tests showed gunshot residue on his hands.

Loevy said during the civil trial that gunshot residue can be transferred through touching or the air. Loevy said prosecutors offered no evidence beyond the residue during Burgess' trial.

Lawyers representing the police department and the officers in the case could not be reached Tuesday evening.

During opening arguments, Kelly M. Preteroti, an attorney representing the officers, said her clients had leads pointing to Burgess and no reason to frame him. They "engaged in no intentional bad-faith conduct," she said.

When the lawsuit was filed, Goldstein said he still had "absolutely no doubt" Burgess was guilty.

Years after Burgess was convicted, an FBI memo surfaced that showed agents investigating a hit man named Howard Bernard Rice had contacted the lead detective in the Dyson case and said she had been killed over a botched drug package delivery by two men and possibly a woman. The name of one suspect was provided, and it was not Burgess.

Loevy accused Goldstein during opening arguments of "keeping that information to himself."

At the time of Rice's death in 1999, police said he was a suspect in as many as seven killings. Then years later, a man named Charles Dorsey wrote a letter to Burgess' mother and attorney, saying he and Rice had killed Dyson

in a home invasion. Dorsey knew Burgess during childhood and was serving 45 years for attempted murder.

Lehmann, the other detective, was accused of taking a call from Dyson's father, who told him that Dyson had been scared in the days leading up to her death and that someone nicknamed "Little Man" had killed her. Loevy argued that "Little Man" was a nickname for Rice, and said detectives failed to consider the tip.

Burgess also contends police were told at the time of the killing that Dyson's 6-year-old son was home when she was killed and said he did not see Burgess.

Lehmann was dismissed from the case, and no judgment was entered against him, said Preteroti, the officers' attorney.

Preteroti said during opening arguments that police thoroughly investigated the case at the time and were unable to match Rice to the nickname "Little Man." She said the FBI memo described the suspects as operating a white Nissan Pathfinder, the same type of car Burgess drove.

Dyson's daughter, 32-year-old Lashanda Folkes, hugged Burgess Tuesday night and stood with him during the press conference.

She said she too got closure from the jury's decision.

"I've been going all these years without knowing anything," she said. "I feel sorry for him, being locked up all those years."

Latasha McFadden, Burgess' fiancee, said the verdict has been a long time coming.

"No money can take the place of what we've been through," she said.

These kinds of trials are unusual in Maryland. Plaintiffs must overcome immunity that police and prosecutors have from lawsuits, and lawyers typically are reluctant to take these cases, said Michele Nethercott, director of the University of Baltimore's Innocence Project.

Loevy & Loevy has a long record of success in such cases. The firm has won a third of the top wrongfulconviction jury verdicts in the nation, according to their website.

"It's nice to see justice," Loevy said. "Sabein is a great guy and he waited a long time for the truth to come out. It's a good feeling when it works."

Baltimore Sun reporter Justin Fenton contributed to this article.

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This article is related to: Homicide, Trials and Arbitration, Baltimore Police Department

Over prosecutors' objection, Baltimore judge removes exonerated man's assault conviction



Demetrius Smith, shown in this 2013 photo, spent five years in prison for a murder he was wrongfully convicted of. On Thursday a Baltimore judge removed his conviction for a shooting. (Kenneth K. Lam / Baltimore Sun)



JANUARY 18, 2018, 1:25 PM

A man's nine-year effort to clear his name came to a close Thursday when a Baltimore judge — over prosecutors' objections — removed his conviction for a shooting.

Demetrius Smith was exonerated of murder in 2013 after serving five years in prison, but a conviction in a separate but related case had remained on his record. The Baltimore State's Attorney's Office wanted it to stay that way, but Judge Barry Williams disagreed, instead imposing probation before judgment.

"There's too much going on to leave this as is," Williams said of Smith's cases.

Smith, given a chance to speak at the hearing, once again declared his innocence in both cases.

"This whole situation is a mess, and all they had to do was say sorry from the beginning, when they knew they was wrong," Smith said.

Smith's attorney, Barry Pollack, said after the hearing that prosecutors too often seek to defend convictions rather than see justice served, calling it a "frightening problem."

Assistant State's Attorney Richard Gibson had initially blocked attempts by Smith to get his sentence changed, saying he had no such grounds. He conceded in a court filing last month that he was wrong, but said at Thursday's hearing that Smith's conviction should stay put.

Gibson, who is running for Howard County State's Attorney, said the shooting case was a "separate charge" from the murder, "with different events, investigated by different officers." But both cases intricately involved former Detective Charles Bealefeld, and when pressed on that point by a clearly frustrated Williams, Gibson said he was unsure.

Williams later said it was a "fact" that the cases had connections, and said it was in the interest of justice to clear Smith's conviction.

Smith was charged in a robbery and shooting in 2008, and was released on bail. Police then charged him with murdering 36-year-old Robert Long in Southwest Baltimore.

Smith maintained his innocence, but was convicted by a jury for Long's murder in 2010 and sentenced to life plus 18 years in prison. When the non-fatal shooting case came up, Smith agreed to plead guilty by entering an Alford plea, where a defendant maintains their innocence, but admits that sufficient evidence exists to convict them.

Federal authorities got involved in the Long murder case, and determined Smith was wrongly convicted.

They had learned through a related investigation that a man named Jose Morales, three weeks after the killing, had told his attorney, Stanley Needleman, that he had Long killed. Morales told Needleman he paid Dead Man Inc., a prison and street gang, \$20,000 to carry out the killing.

Morales was arrested in Texas in 2008 with a large shipment of cocaine, and when taken into custody claimed that Needleman had arranged the killing, prosecutors said.

Morales was convicted in U.S. District Court in 2013 for ordering the killing, and in 2016, federal prosecutors charged Dead Man Inc. gang hit man Troy Lucas with committing the killing.

Lucas was also convicted, and is slated to be sentenced Friday.

After Smith was exonerated, Baltimore prosecutors agreed to change Smith's sentence in the shooting case to time served, and conceded that there were "some issues with the facts" in that case, Pollack said. A key witness has since filed a sworn affidavit saying she wrongly identified Smith, under pressure from detectives.

Pollack said Smith has been an "exemplary citizen" since his release, but was having trouble getting jobs and housing due to the conviction.

"Every time I go for housing, this comes up," Smith told Williams. "I gotta sit down and explain this story. They don't want to hear all that."

Michele Nethercott, of the University of Baltimore's Innocence Project, said she was happy for Smith and hopes he will be able to get housing and improve his job prospects.

"It's been a very long, long drawn out process, and it just shows the incredible difficulty in undoing convictions generally," Nethercott said. "In this particular case, it's such a thicket he's had to navigate. It really to me is indicative of problems in our criminal justice system, with breakdowns at so many levels."

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